

The Gazette



of India

PUBLISHED BY AUTHORITY

No. 9] NEW DELHI, SATURDAY, FEBRUARY 27, 1954

NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 20th February, 1954 :—

Issue No.	No. and date	Issued by	Subject
27	S. R. O. 556, dated the 13th February 1954.	Central Board of Revenue.	The Estate Duty Rules.
28	S. R. O. 557, dated the 15th February 1954.	Ministry of Law	President calls upon the elected members of Legislative Assemblies of certain States to elect members to fill the seats in the Council of States of members retiring on 2nd April 1954.
	S. R. O. 558, dated the 15th February 1954.	Ditto	President's request to members of the electoral College of certain States to elect members to fill the seats in the Council of states of members retiring on 2nd April 1954.
	S. R. O. 559, dated the 15th February 1954.	Ditto	Appointment of certain dates for biennial elections to the Council of States to fill the seats of members retiring on 2nd April 1954.
29	S. R. O. 560 to 597, dated the 15th February 1954.	Election Commission, India.	Appointment of Returning Officers etc.
30	S. R. O. 689, dated the 1st February 1954.	Ditto	Election Petition No. 281 of 1952

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

PART II—Section 3**Statutory Rules and Orders issued by the Ministries of the Government of India (other than the Ministry of Defence) and Central Authorities (other than the Chief Commissioners).****ELECTION COMMISSION, INDIA***New Delhi, the 18th February 1954*

S.R.O. 694.—In pursuance of sub-rule (5) of rule 114 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1951, the name of the person shown in column 1 of the Schedule below who having been nominated as a candidate for Bye-election to the House of the People from the constituency specified in column 2 thereof, and having appointed himself to be his election agent at the said Bye-election, has, in accordance with the decision given by the Election Commission under sub-rule (4) of the said rule, failed to lodge the return of election expenses in the manner required and has thereby incurred the disqualifications under clause (c) of section 7 and section 143 of the Representation of the People Act, 1951 (XLIII of 1951), is hereby published:—

SCHEDULE

Name of the Candidate	Name of constituency
1	2
Shri Manuel	Meenachil

[No. TC-P/53(90)/BYE.]

New Delhi, the 19th February 1954

S.R.O. 695.—In pursuance of sub-rule (5) of rule 114 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1951, the name of the person shown in column 1 of the Schedule below who having been nominated as a candidate for bye-election to the House of the People from the constituency specified in column 2 thereof, and having appointed himself to be his election agent at the said bye-election, has, in accordance with the decision given by the Election Commission under sub-rule (4) of the said rule, failed to lodge the return of election expenses in the manner required and has thereby incurred the disqualifications under clause (c) of section 7 and section 143 of the Representation of the People Act, 1951 (XLIII of 1951), is hereby published:—

SCHEDULE

Name of the Candidate	Name of constituency
1	2
Shri J. P. Mitter	Calcutta South East

[No. WB-P/54(1)BYE/3740.]

By Order,

P. N. SHINGHAL, Secy.

MINISTRY OF HOME AFFAIRS*New Delhi, the 22nd February 1954*

S.R.O. 696.—In exercise of the powers conferred by the proviso to article 309 of the Constitution read with articles 313 and 372 thereof and paragraph 19 of the Adaptation of Laws Orders, 1950, the President hereby directs that the following

further amendment shall be made in the rules published with the Notification of the Government in the late Home Department No F 9/19/30-Ests, dated the 27th February 1932, namely —

In the Schedule to the said Rules, under the heading "Home Department", after the entries under the sub-heading "Office of the Public Service Commission", the following sub-heading and the entries shall be inserted namely—

"Indian Administrative Service Training School
Class III posts

Librarian, Staff Car Driver and Physical Training Instructor	Vice-Principal	Vice Principal	All	Principal
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Class IV posts

Daftry Jamadar, Peons, Room bearers; Bhistis, Sweepers and Watchmen	Administrative Officer	Administrative Officer	All	Vice-Principal
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[No 7/15/52-Ests(i)]

S.R.O. 697.—In exercise of the powers conferred by the proviso to article 309 of the Constitution read with article 313 and 372 thereof and paragraph 19 of the Adaptation of Laws Orders, 1950, the President hereby directs that the following further amendment shall be made in the Notification of the Government of India in the late Home Department, No F 9/2/33-Ests, dated the 9th January 1934, namely.—

In the Schedule to the said Notification, under the head "Secretariat (including Attached Offices) Services and Posts", the following sub-heading and the entries thereunder shall be inserted, namely —

"Indian Administrative Service Training School
Class II Non-Gazetted

Accountant and Hindi Instructor	Vice-Principal	Vice-Principal	All"
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[No 7/15/52-Ests(ii)]

S P MAHNA, Under Secy.

New Delhi, the 23rd February 1954

S.R.O. 698.—In exercise of the powers conferred by section 27 of the Indian Arms Act, 1878 (XI of 1878), the Central Government hereby exempts the Argentine Expedition, "President Peron", from the operation of the prohibitions and directions contained in sections 6, 10 and 13 to 15 of the said Act in respect of the following arms and ammunition —

- (i) five 45 bore pistols with five hundred projectiles,
- (ii) one 9 mm Halcon pistol with five hundred projectiles, and
- (iii) one 7 65 mm carbine (Argentine model) with three hundred projectiles.

[No 9/3/54-Police(I).]

N SAHGAL, Dy Secy.

ORDER

New Delhi, the 17th February 1954

S.R.O. 699.—In exercise of the powers conferred by sub-section (2) of section 63 of the Andhra State Act, 1953 (30 of 1953), the President hereby requires all persons specified by name in column (1) or by official designation in column (2) of the Schedule to this Order, to serve in connection with the affairs of the State of Andhra, as allotted officers

SCHEDULE

Name (1)	Official Designation (2)
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Madras Public Works Department

Sri T. Ranga Rao	Upper Division Clerk.
Sri A. V. Subramaniam	Typist.
Sri M. D. Raju	Attender.

Madras Highways Department

Sri T. A. Ramanatha Reddy	Assistant Engineer (Highways)
Sri B. Krishnamurthy	Divisional Engineer (Highways).

*Madras Labour and Factories Department**Ministerial Staff.*

Lower Division Clerks working in the Offices of the Industrial Tribunal, Visakhapatnam and Labour Officers, Anantapur, Vijayawada, Guntur and Visakhapatnam.
Typists in the Offices of the Labour Officers, Guntur and Visakhapatnam and Stenotypist in the Office of the Industrial Tribunal, Visakhapatnam.

Madras Last-Grade Service

Sri M. Ramaswami	Peon, Office of the Commissioner of Labour, Madras.
Sri M. C. Govindaswamy	Ditto.
Sri P. Ramachandran	Peon, Office of the Assistant Inspector of Labour, XVI Circle, Madras.
Sri Krishnan Nair	Peon, Office of the Chief Inspector of Factories, Madras.

Revenue Subordinate Service, Anantapur District.

Sri P. Audinarayana Reddi	Tahsildar, Anantapur District.
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Madras Co-operative Department

Sri V. Konayya	Co-operative Sub-Registrar.
Sri D. Krishnayya	Senior Inspector.
Sri S. V. Subba Rao	Junior Inspector.
Sri P. N. Parankusam	Junior Inspector.

[No. 26/4/53-AIS(I).]

N. N. CHATTERJEE, Dy. Secy.

MINISTRY OF FINANCE (REVENUE DIVISION)

CENTRAL EXCISE

New Delhi, the 19th February 1954

S.R.O. 700.—In exercise of the powers conferred by section 37 of the Central Excise and Salt Act, 1944 (I of 1944), the Central Government hereby directs that

the following further amendments shall be made in the Central Excise Rules, 1944, namely:—

In clause (ii) (A) of rule 2 of the said Rules for sub-clauses (c) and (h), the following clauses shall respectively be substituted, namely:—

“(c) in the States of Madras, Coorg, Travancore-Cochin and Mysore, the Collector of Central Excise, Madras;

(h) in the States of Andhra and Hyderabad, the Collector of Central Excise, Hyderabad.”

2. These amendments shall take effect on and from the 1st of March 1954.

[No. 7.]

M. P. ALEXANDER, Under Secy.

CENTRAL BOARD OF REVENUE

INCOME-TAX

New Delhi, the 18th February 1954

S.R.O. 701.—The following draft of a further amendment in the Indian Income-tax Rules, 1922, which the Central Board of Revenue proposes to make in the exercise of the powers conferred by sub-section (1) of section 59 of the Indian Income-tax Act, 1922 (XI of 1922), is published as required by sub-section (4) of the said section, for the information of persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration after the 15th March 1954.

2. Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the said Board.

Draft Amendment

After rule 19 of the said Rules, the following rule shall be inserted, namely:—

“19A. The information which a person is required by the Income-tax Officer to furnish under sub-section (4) of section 22 of the Act shall be verified in the following manner, namely:—

‘I declare that to the best of my knowledge and belief, the information furnished in the statement/statements is correct, complete and other particulars shown therein are truly stated.’”

[No. 13.]

G. L. POPHALE, Secy.

MINISTRY OF COMMERCE AND INDUSTRY

Bombay, the 18th February 1954

S.R.O. 702.—In exercise of the powers conferred upon me by clause 6 of the Cotton Control Order, 1950 I hereby direct that the following further amendments shall be made in the Textile Commissioner's Notification No. S.R.O. 1425, dated the 16th July 1953, namely:—

In the said Notification, in item (iii) of the opening paragraph:—

(1) for the words and figures, “hedge contracts for February and May 1954”, the words and figures “hedge contracts for February, May and August, 1954” shall be substituted;

(2) for the words and figures “are for February, 1954 or May 1954 delivery” the words and figures “are for February, 1954, May, 1954 or August, 1954 delivery” shall be substituted.”

M. R. KAZIMI, Joint Textile Commissioner.

[No. 44(12)-CT(A)/53(ix).]

S. A. TECKCHANDANI, Under Secy.

New Delhi, the 20th February 1954

S.R.O. 703.—In pursuance of the provisions of rules 5 and 9 of the Registration and Licensing of Industrial Undertakings Rules, 1952, and in supersession of the notification of the Government of India in the Ministry of Commerce and Industry No. S.R.O. 1628, dated the 20th September 1952, the Central Government in the Ministry of Commerce and Industry, hereby appoints for the purposes of the said rules, the authorities specified in column 2 of the Schedule annexed hereto to call for additional information from applicants in respect of applications made by them for the registration and licensing of industrial undertakings pertaining to the scheduled industries mentioned in the corresponding entry of column 3 of the said Schedule.

THE SCHEDULE

S. No.	Authorities	Scheduled Industries
I	2	3
1.	Industrial Adviser (Chemicals), Ministry of Commerce & Industry.	(5A) Scientific instruments. (10e) Textiles made of artificial silk including artificial silk yarn. (10f) Textiles made wholly or in part of staple fibre (Artificial silk yarn and staple fibre). (15) Heavy chemicals including fertilisers. (21) Paper including newsprint, paper board and straw board. (22) Pharmaceuticals and drugs. (23) Power and industrial alcohol. (24) Rubber goods. (25) Leather, leather goods and pickers. (26) Glue and gelatine. (27A) Vegetable oils. (37) Glass and ceramics. (38) Dye-stuffs. (39) Soap. (40) Other toilet requisites. (41) Plywood. (3) Coke and other derivatives.
2.	Industrial Adviser (Engineering), Ministry of Commerce & Industry.	(5) Mathematical, surveying and drawing instruments. (7) Ships and other vessels propelled by the agency of steam, or by electricity or other mechanical power, including their component parts and accessories. (9) Telephones, telegraph apparatus and wireless communication apparatus including component parts and accessories thereof. (11) Automobiles, including component parts and accessories thereof. (11A) Tractors, including component parts and accessories thereof. (12) Cement. (13) Electric lamps, including component parts and accessories thereof. (13A) Electric fans, including component parts and accessories thereof. (14) Electric motors. (16) Machinery used in industries including boilers and steam generating equipment. (16A) Ball, roller and tapered bearings. (17) Locomotives, including component parts and accessories thereof.

S. No.	Authorities	Scheduled Industries
1	2	3
		(17A) Rolling stock, including component parts and accessories thereof.
		(18) Machine tools.
		(19) Machinery and equipment for the generation, transmission and distribution of electric energy.
		(20) Non-ferrous metals including alloys and semi-manufactures thereof.
		(28) Agricultural implements.
		(29) Batteries, dry cells and storage, including component parts and accessories thereof.
		(30) Bicycles, including component parts and accessories thereof.
		(31) Hurricane lanterns.
		(32) Internal Combustion engines including component parts and accessories thereof.
		(33) Power driven pumps, including component parts and accessories thereof.
		(34) Radio receivers, including component parts and accessories thereof.
		(35) Sewing machines, including component parts and accessories thereof.
		(35A) Knitting machines, including component parts and accessories thereof.
		(36) Small tools.
		(36A) Hand tools.
		(42) Ferro-manganese.
		(4) Iron and steel, including any manufactured product of iron and steel.
3.	Iron & Steel Controller, Ministry of Commerce and Industry.	(4) Iron and steel, including any manufactured product of iron & steel (controlled categories).
4.	Textile Commissioner, Ministry of Commerce & Industry.	(10) Textiles— (a) made wholly or in part of cotton including cotton yarn, hosiery, and rope. (c) made of wool, including woollen yarn, hosiery, carpets & druggets. (d) made of silk. (e) made of artificial silk, including artificial silk yarn (fabrics). (f) made wholly or in part of staple fibre
5.	Ministry of Food & Agriculture . . .	(8) Sugar. (27) Vanaspati.
6.	Coal Commissioner to the Government of India, Ministry of Production.	(3) Coal.
7.	Ministry of Production . . .	(6) Motor and aviation fuel, kerosene, crude oils and synthetic oils.

[No. 1(1)IA(G)/54.]

P. S. SUNDARAM, Under Secy.

New Delhi, the 24th February 1954

S.R.O. 704.—In exercise of the powers conferred by Section 5 of the Khadi and other Handloom Industries Development (Additional Excise Duty on Cloth) Act 1953, (No. 12 of 1953), the Central Government hereby makes the following rules, namely:—

1. **Short Title.**—These rules may be called the Khadi and Other Handloom Industries Development Rules.

2. **Definition.**—In these Rules, unless the context otherwise requires, 'the Act' means the Khadi and Other Handloom Industries Development (Additional Excise Duty on Cloth) Act, 1953 (No. 12 of 1953).

3. **Accounting procedure.**—(1) The nett proceeds of the duty of excise levied and collected under the Act shall first be credited to the Consolidated Fund of India under Major Head "II—Union Excise Duties"; and thereafter, an amount equivalent to the nett proceeds will be transferred to a Fund, called "The Fund for the Development of Handloom and Khadi Industries", hereinafter referred to as "the Fund", opened under Section P—Deposits and Advances—Part II Deposits not bearing interest—(B) Reserve Funds.

(2) The expenditure on khadi and other handloom industries shall be booked separately, under distinct minor heads under the major head "43-Industries and Supplies"; and the total expenditure on both khadi and other handloom industries shall be recovered from the Fund through a separate minor head "Deduct recoveries from the Fund for the Development of Handloom and Khadi Industries" under the same major head.

(3) The expenditure in the nature of loans to State Governments or to any organisations or institutions shall be initially debitable to the Major Head "Q—Loans and Advances—Loans and Advances by the Central Government" and then transferred to the Fund through a head "Deduct amount financed from the Fund for the Development of Handloom and Khadi Industries" under Section "Q—Loans and Advances by the Central Government". Such loans on repayment shall with the interest accrued thereon be credited direct to the Fund.

(4) For the purposes of execution of schemes for the development of khadi and other handloom industries, approved by the Central Government, the Central Government may authorise the opening of such Personal Ledger Accounts as it may think necessary. The accounts of disbursements of all expenditure from such personal Ledger Accounts shall be maintained in such form and manner as may be prescribed by the Comptroller and Auditor General of India and shall be subject to such audit and scrutiny as the Comptroller and Auditor General may direct.

(5) The payments from the Fund both by way of grants including subsidies and by way of loans for the development of khadi and other handloom industries shall be included in the annual appropriation Bill.

4. **Setting up of Advisory Boards.**—(1) The Central Government may, by a resolution or resolutions published in the *Gazette of India*, appoint such Board or Boards as may be considered necessary or expedient for advising them on measures to be taken for the development of khadi and other handloom industries.

(2) The Central Government may on the advice of any such Board make grants or loans from the Fund to State Governments or non-official organisations and institutions for assistance in respect of such schemes as are sponsored by the State Governments or the organisations or institutions concerned for the development of khadi and other handloom industries. The Central Government may, in respect of such measures as have been recommended by a Board and duly approved by that Government, make necessary funds available to such Board from the Fund and authorise a Board to incur expenditure directly in that behalf.

5. **Allocation of monies.**—The monies in the Fund may be allocated for expenditure on the development of khadi and other handloom industries in such proportion and in such manner as the Central Government may from time to time decide.

6. **Khadi Industry.**—(1) The All-India Khadi and Village Industries Board set up by the Central Government may utilise such monies as that Government may

allot to it from the Fund for developing and promoting the khadi industry in such manner as it considers fit, and, in particular, for—

- (i) purchase of raw materials such as cotton ginned or un-ginned, wool, silk, cocoons;
- (ii) purchase of raw materials such as timber, iron and other materials required for manufacture of implements needed for the production of khadi;
- (iii) hire of godowns or depots for storing such raw materials, and any other material that the Board may consider necessary in the interest of the industry;
- (iv) opening and conducting production centres for yarn and khadi;
- (v) making arrangements for stocking, processing, bleaching, dyeing etc. of hand-spun yarn and khadi;
- (vi) opening and conducting depots and emporia for the sale of khadi and implements required for khadi production;
- (vii) holding exhibitions, competitions and other public displays in relation to khadi;
- (viii) training of spinners, weavers and other artisans engaged in khadi production;
- (ix) training of salesmen, instructors, supervisors, inspectors and others engaged in production and sale of khadi;
- (x) conducting of research and experiments for improved implements and technique of production;
- (xi) publication of literature and conducting propaganda and publicity for popularising khadi.

(2) The Central Government may, on the advice of the said Board, make grants or loans or both grants and loans to institutions registered under the Societies Registration Act (Act XXI of 1860) or under a Co-operative Societies Act or to a public trust approved by the Board for such of the purposes referred to in sub-rule (1) as it may prescribe. The loans will be subject to such conditions regarding security, pledge, mortgage, interest and period of repayment as may be prescribed by the Central Government.

(3) Within the scope of schemes approved by the Central Government, the Office Secretary of the Board, under the direction of the Chairman, may, without prior approval of the Central Government, grant a loan, not exceeding Rupees two lakhs, to any person or institution, in respect of each scheme.

7. Other Handloom Industries.—(1) The monies allotted out of the Fund for the development of handloom industries other than khadi industry may be utilised by the Central Government for the purpose of making grants or loans or both grants and loans to State Governments for execution of their schemes, in consultation with the All-India Handloom Board set up to advise the Central Government. Grants or loans or both grants and loans may be given for schemes which in particular may include—

- (a) financing the share capital of weavers to enable them to be admitted to existing Co-operative societies or to form new co-operative societies;
- (b) providing working capital in the initial stages to co-operative societies;
- (c) schemes for marketing of handloom cloth other than khadi, such as opening of sales depots and emporia and provision of mobile vans;
- (d) subsidising, in the initial stages, the sales of handloom cloth other than khadi by co-operative societies or State-owned depots, for such limited period as may be laid down by the Central Government from time to time;
- (e) undertaking research in the technique of production of handloom cloth other than khadi and in the art of designs relating thereto;
- (f) Setting up of dye-houses, testing laboratories, finishing plants.

(2) Expenditure may also be sanctioned by the Central Government for such other schemes as may be considered necessary or expedient by the Board for the development of handloom industries other than khadi industry.

(3) The All-India Handloom Board may call upon the State Governments to submit every year in such form and manner and on or before such date as may be prescribed by the said Board a statement of (i) their schemes for the development of handloom industries other than khadi industry, (ii) the expenditure to be incurred for the same both altogether and during the following financial year, and (iii) the grants or loans or both grants and loans which they may require from the Fund.

(4) The Board may after careful examination of the schemes make suitable recommendations to the Central Government for the approval of the schemes and for sanction of necessary funds both by way of grants and by way of loans.

(5) Payment of any grant to a State Government may be made by the Central Government in instalments after periodic scrutiny by the Board of the progress of the approved schemes for which grant was sanctioned. In appropriate cases, the payment of an instalment may be made conditional on the production by the State Government of a certificate from the Accountant General concerned of the actual expenditure incurred.

(6) The State Governments may be required to submit to the Central Government through the Board such periodic progress reports in such form and manner as may be prescribed by the Central Government or the Board.

(7) Payment of a loan to a State Government or to any organisation or institution shall be subject to such terms and conditions regarding repayment and interest as may be specified by the Central Government.

[No. F.48(25)-CT(A)/53.]

S. A. TECKCHANDANI, Under Secy.

New Delhi, the 27th February 1954

S.R.O. 705.—In exercise of the powers conferred by sub-section (3) of section 1 of the Indian Power Alcohol Act, 1948 (XXII of 1948), the Central Government hereby specifies the 8th day of March 1954, as the date on which the said Act shall come into force in the District of Ludhiana of the State of Punjab.

[No. Ind.(B)-33(1)/54(i).]

S.R.O. 706.—In exercise of the powers conferred by sub-section (3) of section 1 of the Indian Power Alcohol Act, 1948 (XXII of 1948), the Central Government hereby specifies the 1st day of March 1954, as the date on which the said Act shall come into force in those areas of the Districts of Karnal, Hissar, Gurgaon and Rohtak of the State of Punjab, which are not already covered by the following notifications of the Government of India in Ministry of Commerce and Industry:—

1. No. 48(22)-T&P/50(Plant), dated the 20th February 1952. (S.R.O. 304).
2. No. 48(22)-T&P/50 (Plant) (1), dated the 1st November 1952 (S.R.O. 1795).
3. No. 48(22)-T&P/50 (Plant) (Ind.-B), dated the 11th February 1953.
4. No. 48(22)-T&P/50(Plant) (Ind.-B), dated the 25th March 1953.
5. No. 48(22)/50(Ind.-B), dated the 28th April 1953. (S.R.O. 799).
6. No. 48(22)/50(Ind.-B), dated the 28th July 1953. (S.R.O. 1482).

[No. Ind.(B)-33(1)/54(ii).]

S.R.O. 707.—In exercise of the powers conferred by sub-section (3) of section 1 of the Indian Power Alcohol Act, 1948 (XXII of 1948), the Central Government hereby specifies the 1st day of March 1954, as the date on which the said Act shall come into force in the each of the areas in the State of Punjab, specified in the schedule annexed hereto.

SCHEDULE

Name of the area	Tehsil	District
Nadaun	Hamirpur	Kangra
Hamirpur	Hamirpur	Kangra

[No. Ind.(B)-33(1)/54(iii).]

K. N. SHENOY, Under Secy.

MINISTRY OF FOOD AND AGRICULTURE

(Agriculture)

New Delhi, the 20th February 1954

S.R.O. 708.—In pursuance of the provision of Section 4(4) (ii) of the Indian Lac Cess Act, 1930 (XXIV of 1930), Mr. J. P. Young of Messrs. Angelo Brothers, Cossipore, Calcutta, has been nominated by the Bengal Chamber of Commerce to be a member of the Governing Body of the Indian Lac Cess Committee *vice* Dr. R. W. Aldis resigned. Mr. Young will hold office till 30th September, 1956, under Rule 4(b) of the Indian Lac Cess Rules, 1930.

[No. F.4-1/54-Comm.I.]

F. C. GERA, Under Secy.

New Delhi, the 22nd February 1954

S.R.O. 709.—The following draft of certain rules which it is proposed to make in exercise of the powers conferred by section 3 of the Agricultural Produce (Grading & Marking) Act, 1937 (I of 1937), is published for the information of all persons likely to be affected thereby and notice is hereby given that the draft will be taken into consideration on or after the 15th March, 1954.

Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the Central Government.

DRAFT RULES

1. *Short title and application.*—These Rules may be called the William Pears (Grading & Marking) Rules, 1953.

(2) They shall apply to William Pears produced in any part of India except the State of Jammu & Kashmir.

2. *Grade designations.*—The grade designations to indicate the characteristics and quality of William Pears of specified description are set out in column 1 of Schedule I.

3. *Definition of quality.*—The definition of quality indicated by the grade designations is specified in columns 2 and 3 of Schedule I.

4. *Grade designation Marks.*—The grade designation mark to be applied to each pear or container packed with pears shall consist of a label bearing the design as set out in Schedule II specifying the grade designation and will be of the following colour:—

Grade Designation		Colour of the label
Extra large	..	White
Large	..	Red
Medium	..	Black
Small	..	Blue

5. *Method of marking.*—The grade designation mark label shall be securely affixed to each package of pears and shall clearly show the following particulars:—

- (a) variety—William,
- (b) number,
- (c) net weight,

(d) name and address of packing station; and

(e) date of packing.

6. *Method of packing.*—(1) Containers may be either returnable or non-returnable. They shall be clean and suitable for the purpose. All packages shall be securely closed.

(2) Packing material, is used, shall be clean and dry.

(3) Pears in any container shall be of William variety, of one grade, reasonably uniform and the top layer shall be representative of the entire contents of the package in respect of size, colour, maturity, shape and freedom from defects.

SCHEDULE I

Grade designations and definition of quality for "William" variety of pears produced in India.

(See Rules 2, 3 and 4)

Grade	Size	Definition of quality.
designation	mini-	State of condition.
	mum	
	inches	
Extra large	2½"	1. Each fruit shall have reached a stage of maturity which will permit the subsequent completion of ripening in the ordinary course of transport and marketing.
Large.	2¼"	2. Each fruit shall have developed the characteristic colour of the variety, i.e. light-greenish over ¾th of the surface area of fruit and uniform in colour throughout the pack.
Medium.	2½"	3. Each fruit shall have shape normal to the variety and be free from malformation.
Small.	2"	4. Each fruit shall be firm & reasonably developed and in good condition Windfalls & shrivelled fruits shall not be packed.
		5. Each fruit shall be free from defects due to diseases or insects of mechanical injury affecting the keeping quality of the fruit.
		*6. Blemish not affecting the keeping quality is permitted to the extent of ¼ square inch in the case of Extra large grade and ½ square inch for the other grades, provided no single mark is larger than 1/8 square inch in the latter.
		7. Light russeting dispersed over an aggregate area of 1/10th of the total surface & not affecting the internal quality of the fruit may be permitted.
		8. The stalk shall be removed close to the fruit but not pulled out.

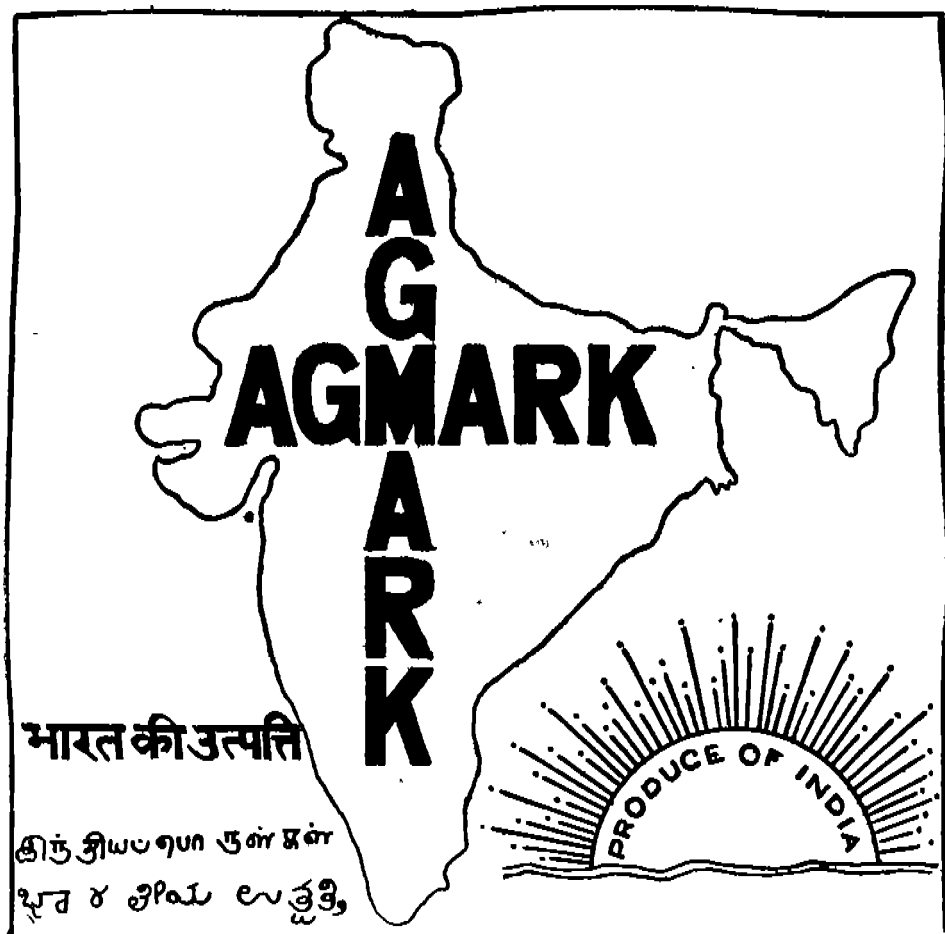
NOTE.—A tolerance of 10 per cent. shall be allowed for accidental error in grading in respect of fruit corresponding with the size specification in the next lower and/or higher grade.

"Blemish" includes marks due to fungus diseases, insect pests, hail-storm, spray, etc., in which case the damaged skin has healed.

SCHEDULE II

Grade Designation Mark for William Pears

(See rule 4)



[No. F. 5-82/53-Dte.II.]

N. S. SREEKANTIAH, Under Secy.

MINISTRY OF IRRIGATION AND POWER**ORDER***New Delhi, the 23rd February 1954*

S.R.O. 710.—In exercise of the powers conferred by section 55 of the Indian Electricity Act, 1910 (IX of 1910), the Central Government hereby authorises the discharge of the functions of the State Government under sections 13 and 18, sub-section (2) of section 34 and sub-clause (2) of clause V and clause XIII of the Schedule to the said Act, in the Andaman and Nicobar Islands by Shri T. N. Idnani, Electric Inspector.

[No. E1-II-207(12).]

K. L. SAXENA, Under Secy.

MINISTRY OF INFORMATION AND BROADCASTING*New Delhi, the 23rd February 1954*

S.R.O. 711.—In exercise of the powers conferred by section 9 of the Cinematograph Act, 1952 (XXXVII of 1952), the Central Government hereby exempts the films entitled "Introduction to Crefal" and "New Horizons" produced by the United Nations Educational, Scientific and Cultural Organisation from the operation of Part II of the said Act and the rules made thereunder.

[No. 7/28/53-FIL.]

S. P. ADVANI, Dy. Secy.

MINISTRY OF HEALTH*New Delhi, the 19th February 1954*

S.R.O. 712.—The following draft of a further amendment in the Drugs Rules, 1945, which it is proposed to make after consultation with the Drugs Technical Advisory Board, in exercise of the powers conferred by section 33 of the Drugs Act, 1940 (XXIII of 1940), is published as required by the said section, for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration after the 27th May 1954.

2. Any objection or suggestion which may be received from any persons, with respect to the said draft, before the date specified, will be considered by the Central Government.

Draft Amendment

In Schedule K to the said Rules, for the entry against item 7 (Quinine Sulphate), the following entry shall be substituted, namely:—

"The provisions of clause (a) (i) of Section 18 of the Act to the extent that the loss on drying, when heated to constant weight at 100 C, does not exceed 16 per cent. of its weight."

[No. F.1-17/52-DS.]

N. B. CHATTERJI, Dy. Secy.

CORRIGENDUM*New Delhi, the 20th February 1954*

S.R.O. 713.—The words "Dr. Chunibhai S. Patel" should be substituted for the words "Dr. Chunilal S. Patel" occurring in this Ministry's Notification No. 5-13/53-M.I., dated the 12th February, 1954.

[No. F. 5-13/53-M.I.]

J. N. SAKSENA, Under Secy.

MINISTRY OF COMMUNICATIONS*New Delhi, the 23rd February 1954*

S.R.O. 714.—The following draft of a further amendment in the Indian Aircraft Rules, 1937, which it is proposed to make in exercise of the powers conferred by Section 5 of the Indian Aircraft Act, 1934 (XXII of 1934), is published, as required by Section 14 of the said Act, for the information of persons likely to be affected thereby, and notice is hereby given that the said draft will be taken into consideration after the 25th May, 1954.

2. Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the Central Government.

Draft Amendment

1. In rule 8 of the said Rules—

(a) for clause (c) of sub-rule (2) the following clause shall be substituted, namely:—

“(c) any other goods the carriage of which is authorised in writing by the Central Government, in accordance with and subject to the terms and conditions of such authorization.”; and

(b) sub-rule (5) shall be re-numbered as sub-rule (6) and before sub-rule (6) as so re-numbered the following sub-rule shall be inserted, namely:—

“(5) Every consignor of goods by air, other than a consignor to whom sub-rule (4) applies shall make a written declaration to the effect that the consignment does not contain any goods of the nature specified in sub-rule (1) and shall furnish the same to the aircarrier.”

[No. 10-A/74-53.]

K. V. VENKATACHALAM, Dy. Secy.

(Posts & Telegraphs)*New Delhi, the 19th February 1954*

S.R.O. 715.—In exercise of the powers conferred by section 16 of the Indian Post Office Act, 1898, (VI of 1898), the Central Government hereby directs that the following further amendment shall be made in the Indian Post Office Rules, 1933, namely:—

After item (mm) of rule 183 of the said Rules the following item shall be inserted, namely:—

“(nn) University Grants Commission provided that the articles posted by them relate solely to the business of the said Commission”.

[No. C.24-1/54.]

V. M. BHIDE, Dy. Secy.

MINISTRY OF REHABILITATION*New Delhi, the 18th February 1954*

S.R.O. 716.—In exercise of the powers conferred by Section 4 of the Evacuee Interest (Separation) Act, 1951 (LXIV of 1951), the Central Government hereby appoint Shri Hem Chand, Senior Sub-Judge as a Part-time Competent Officer for the State of Himachal Pradesh with effect from the 2nd January 1954 (F. N.), for the purpose of performing the functions assigned to him by or under the said Act.

[No. 52(5)/52-Prop.]

MANMOHAN KISHEN, Under Secy.

MINISTRY OF EDUCATION**RESOLUTION***New Delhi, the 22nd February 1954*

S.R.O. 717.—The following amendment is made in the Resolution of the Government of India in the late Department of Education (now Ministry of Education) No. F. 16-10/44-E. 111, dated the 30th November, 1953, as subsequently amended upto the 6th March 1953:—

In the said Resolution—

After sub-clause (o) of clause (i) of paragraph 3 the following sub-clause shall be inserted:—

(p) Chairman, University Grants Commission.

[No. F. 1-13/53-T.2.]

G. K. CHANDIRAMANI, Dy. Secy.

MINISTRY OF RAILWAYS**(Railway Board)***New Delhi, the 23rd February 1954*

S.R.O. 718.—In exercise of the powers conferred by Section 47 of the Indian Railways Act, 1890 (IX of 1890) and by the Notification of the Government of India in the late Department of Commerce and Industry No. 801 dated the 24th March, 1905, the Railway Board hereby directs that the following further amendment shall be made in the General Rules for all open lines of Railways in India administered by the Government published with the notification of the Government of India in the late Railway Department (Railway Board) No. 1078-T, dated the 9th March 1929, namely:—

In the schedule appended to part III of the said Rules, after clause (f), in column 3, against entry 56, the following clause shall be inserted namely:—

“(g) Liquid Chlorine may be carried in approved tank wagons.”

[No. 1355-TG.]

P. H. SARMA, Director, Transportation.

MINISTRY OF TRANSPORT**MERCHANT SHIPPING***New Delhi, the 17th February 1954*

S.R.O. 719.—In exercise of the powers conferred by section 21 of the Indian Merchant Shipping Act, 1923 (XXI of 1923), the Central Government hereby directs that the following further amendments shall be made in the Rules regulating the grant of Certificates of Competency to Engineers, published with the notification of the Government of India in the Ministry of Transport No. S.R.O. 240, dated the 9th February 1952, namely:—

At the end of list under (III) Marine Departments of Technical Schools in Appendix D of the said Rules, the following new list under the heading “(IV) Combined Courses” with the foot-note thereunder shall be inserted, namely:—

“(IV) *Combined Courses.*—Training Schemes in which a successful completion of the workshop and vocational training courses is recognised as equivalent to the four years workshop service prescribed in rule 7.

Name of School or Institution

*Calcutta:—Government of India Marine Engineering College, Calcutta.”

*A satisfactory final passing out certificate issued by the Director of Marine Engineering Training, Calcutta, must be obtained.

[No. 67-M.A.(16)/53.]

S. K. GHOSH, Dy. Secy.

MINISTRY OF PRODUCTION

New Delhi, the 18th February 1954

S.R.O. 720.—In exercise of the powers conferred by clause 4 of the Colliery Control Order, 1945, as continued in force by section 17 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the Central Government hereby directs that the following further amendments shall be made in the notification of the Government of India in the late Department of Industries and Supplies No. 19, dated the 9th January 1946, namely:—

In the said notification in the table set forth under item "I-Collieries in Bengal and Bihar (a) Coal" for the entries against Grade II, the following entries shall be substituted, namely:—

			Rs.	As.	Ps.	Rs.	As.	Ps.
Grade II	..	..	12	6	0	13	7	0

[No. 4-CI(2)/54.]

S.R.O. 721.—In exercise of the powers conferred by clause 4 of the Colliery Control Order, 1945, as continued in force by section 17 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the Ministry of Production No. 4-CI(2)/51, dated the 26th August, 1952, namely:—

In the said notification, for the table under the "Schedule of prices", the following table shall be substituted, namely:—

			Price per ton.		
Grade of Coal			Rs.	As.	Ps.
I. Singareni Group of Collieries (except Yellendu).					
Round Coal	..	..	22	8	0
Separator Nut Coal 1"—2"	..	..	22	8	0
Nut Coal $\frac{1}{2}$ "—1"	..	..	21	0	0
Run of mine Coal	..	..	22	0	0
No. 2 Coal	..	..	21	8	0
Slack Coal 0'— $\frac{1}{2}$"	..	..	20	8	0
Shale Coal	..	..	13	4	0
II. Yellendu Colliery.					
Round Coal	..	..	21	8	0
Separator Nut Coal 1"—2"	..	..	21	8	0
Nut Coal $\frac{1}{2}$ "—1"	..	..	20	0	0
Run of mine Coal	..	..	21	0	0
No. 2 coal	..	..	20	8	0
Rough Slack 0"—2"	..	..	20	8	0
Slack Coal 0"— $\frac{1}{2}$"	..	..	19	8	0
Shale Coal	..	..	12	4	0
III. Sasti Colliery.					
Run of Mine, Dust coal and Slack	..	..	15	1	0
Steam coal, Rubble and Smithy nuts	..	..	16	1	0

[No. 4-CI(8)/53.]

A. NANU, Dy. Secy.

REGISTRAR, JOINT STOCK COMPANIES**NOTICES***Salem, the 11th February 1954***ENCLOSURE TO FORM III****In the matter of the Indian Companies Act, 1913 and the Rasipuram Lakshmi Corporation Limited.****NOTICE PURSUANT TO SECTION 247(3)****S.R.O. 722.**—Whereas communications addressed to the Rasipuram Lakshmi Corporation Limited at its registered office are remaining unanswered;

And whereas it appears accordingly that the Rasipuram Lakshmi Corporation Limited is not carrying on business or is not in operation;

Notice is hereby given pursuant to section 247(3) of the Indian Companies Act, 1913 that unless cause is shown to the contrary before the expiration of three months from the date of this notice, the name of the said company will be struck off the register and the said company will be dissolved.

A. J. AZARIAH, Asstt. Registrar of
Joint Stock Companies, Salem.*Madras, the 11th February 1954***In the matter of the Indian Companies Act, 1913 and of The Andhra Agencies Ltd.****NOTICE PURSUANT TO SECTION 247(3) OF THE ACT****S.R.O. 723.**—Whereas communications addressed to The Andhra Agencies Ltd., at its registered office remain unanswered;

And whereas it appears accordingly that The Andhra Agencies Ltd. is not carrying on business or is not in operation;

Notice is hereby given pursuant to section 247(3) of the Indian Companies Act, 1913, that unless cause is shown to the contrary before the expiration of three months from the date of this notice, the name of the said company will be struck off the register and the company dissolved.

*Madras, the 12th February 1954***In the matter of the Indian Companies Act, 1913, and The Madras Financiers' Association****NOTICE PURSUANT TO SECTION 247(5)****S.R.O. 724.**—With reference to the notice dated 27th October 1953 published on page 1387 of Part II of the *Fort St. George Gazette, Madras*, dated 11th November 1953, the above company not having shown cause to the contrary within the time fixed, the name of the company has, under Section 247(5) of the Indian Companies Act, 1913, been struck off the register.*Madras, the 13th February 1954***In the matter of Indian Companies Act, 1913 and The National Electrical and Chemical Industries (India) Limited****NOTICE PURSUANT TO SECTION 247(3)****S.R.O. 725.**—Whereas communications addressed to the National Electrical and Chemical Industries (India) Limited at its registered office either remain unanswered or are returned undelivered by the post office;

And whereas it appears accordingly that the National Electrical and Chemical Industries (India) Limited is not carrying on business or is not in operation;

Notice is hereby given, pursuant to section 247(3) of the Indian Companies Act, 1913, that, unless, cause is shown to the contrary before the expiration of three months from the date of this notice, the name of the said company will be struck off the register and the said company will be dissolved.

K. GOPAUL, Asstt. Registrar of
Joint Stock Companies, Madras.

Palayamkottai, the 13th February 1954

In the matter of the Indian Companies Act, 1913 and the New India Ice and Cold Storage Limited

NOTICE PURSUANT TO SECTION 247(3) OF THE ACT

S.R.O. 726.—Whereas communication dated 8th January 1954 addressed to the New India Ice and Cold Storage Limited at its registered office is returned undelivered through post office;

And whereas it appears accordingly that New India Ice and Cold Storage Limited is not carrying on business or is not in operation;

Notice is hereby given pursuant to section 247(3) of the Indian Companies Act, 1913, that, unless cause is shown to the contrary before the expiration of three months from the date of this notice, the name of the said company will be struck off the register and the said company will be dissolved.

[No. 41K.]

M. SYED KADIR, Asstt. Registrar of
Joint Stock Companies, Palayamkottai Distt

Coimbatore, the 13th February 1954

In the matter of the Indian Companies Act, 1913 and Prabhat Tea and Coffee (India) Limited

NOTICE PURSUANT TO SECTION 247(5)

S.R.O. 727.—With reference to the notice dated 27th October 1953, published on page 1371 of the *Fort St. George Gazette*, Part II, dated 4th November 1953, the above company not having shown cause to the contrary within the time fixed, the name of the company has, under Section 247(5) of the Indian Companies Act, 1913, been struck off the register.

R. SRINIVASAN, Asstt. Registrar of
Joint Stock Companies, Palayamkottai Distt.

Vellore, the 14th February 1954

In the matter of Tamarind Products Limited

NOTICE PURSUANT TO SECTION 247(5) OF THE INDIAN COMPANIES ACT, 1913

S.R.O. 728.—With reference to the notice, dated 26th October, 1953, published on page 1371 of Part II of the *Fort Saint George Gazette*, Madras, dated 4th November, 1953, the above company not having shown cause to the contrary within the time fixed, the name of the Company has, under Section 247(5) of the Indian Companies Act, 1913, been struck off the register.

P. M. SUNDARESA SASTRI,
Assistant Registrar of Joint Stock
Companies, North Arcot (Madras State).

Shillong, the 15th February 1954

In the matter of the Indian Companies Act, 1913 (VII of 1913) and in the matter of the Screen Arts (India) Ltd., of Gauhati, Assam

S.R.O. 729.—Notice is hereby given that the name of the Screen Arts (India) Ltd., of Gauhati, Assam, has this day been struck off the Register and that the Company is dissolved.

In the matter of the Indian Companies Act, 1913 and in the matter of the Eastern Agency (Assam) Ltd., of Gauhati, Assam

S.R.O. 730.—Notice is hereby given pursuant to section 247(3) of the Indian Companies Act, 1913, that at the expiration of three months from this date, the name of the Eastern Agency (Assam) Ltd., P.O. Gauhati, Assam, will, unless cause is shown to the contrary be struck off the Register of Companies and the Company will be dissolved on the ground that it is not carrying on any business and is not in operation.

N. N. CHAKRAVARTI,
Registrar of Joint Stock Companies, Assam.

Bombay, the 15th February 1954

In the matter of the Indian Companies Act, VII of 1913 and of the National Home Publications Ltd.

S.R.O. 731.—Notice is hereby given pursuant to Section 247 of the Indian Companies Act, VII of 1913, that at the expiration of three months from the date hereof the name of the National Home Publications Limited, will, unless cause is shown to the contrary, be struck off the Register and the said Company will be dissolved.

In the matter of the Indian Companies Act, VII of 1913 and of the Shantilal Sheth & Company Ltd.

S.R.O. 732.—Notice is hereby given pursuant to Section 247 of the Indian Companies Act VII of 1913, that at the expiration of three months from the date hereof the name of the Shantilal Sheth & Company Ltd. will, unless cause is shown to the contrary, be struck off the Register and the said Company will be dissolved.

In the matter of the Indian Companies Act, VII of 1913 and of the Inder Singh Bajaj & Co., Ltd.

S.R.O. 733.—Notice is hereby given pursuant to Sub-section (5) of the Section 247 of the Indian Companies Act VII of 1913 that the name of Inder Singh Bajaj & Co., Limited, has this day been struck off the Register and the said Company is hereby dissolved.

In the matter of the Indian Companies Act, VII of 1913 and of the Somanath and Sons Ltd.

S.R.O. 734.—Notice is hereby given pursuant to Section 247 of the Indian Companies Act VII of 1913, that at the expiration of three months from the date hereof the name of the Somanath and Sons Limited, will, unless cause is shown to the contrary, be struck off the Register and the said Company will be dissolved.

In the matter of the Indian Companies Act, VII of 1913 and of the Satara Local Bus Service Limited.

S.R.O. 735.—Notice is hereby given pursuant to Section 247 of the Indian Companies Act VII of 1913, that at the expiration of three months from the date hereof the name of the Satara Local Bus Service Limited, will, unless cause is shown to the contrary, be struck off the Register and the said Company will be dissolved.

In the matter of the Indian Companies Act, VII of 1913 and of the Saraf Saw Mills Limited.

S.R.O. 736.—Notice is hereby given pursuant to Sub-section (5) of the Section 247 of the Indian Companies Act VII of 1913 that the name of Saraf Saw Mills Limited, has this day been struck off the Register and the said Company is hereby dissolved.

Bombay, the 16th February 1954

In the matter of the Indian Companies Act, VII of 1913 and of the Modern Hindustan Food Products Ltd.

S.R.O. 737.—Notice is hereby given pursuant to Sub-section (5) of the Section 247 of the Indian Companies Act VII of 1913 that the name of The Modern Hindustan Food Products Limited, has this day been struck off the Register and the said Company is hereby dissolved.

In the matter of the Indian Companies Act, VII of 1913 and of the Dani Kanakia & Co., Ltd.

S.R.O. 738.—Notice is hereby given pursuant to Section 247 of the Indian Companies Act VII of 1913, that at the expiration of three months from the date hereof the name of the Dani Kanakia & Co., Limited, will, unless cause is shown to the contrary, be struck off the Register and the said Company will be dissolved.

Bombay, the 17th February 1954

In the matter of the Indian Companies Act, VII of 1913 and of the Shaikh Brothers Dyeing-Printing & Finishing Company Limited.

S.R.O. 739.—Notice is hereby given pursuant to Section 247 of the Indian Companies Act VII of 1913, that at the expiration of three months from the date hereof the name of the Shaikh Brothers Dyeing-Printing & Finishing Company Limited will, unless cause is shown to the contrary, be struck off the Register and the said Company will be dissolved.

In the matter of the Indian Companies Act, VII of 1913 and of the Pearl Fabrics Limited.

S.R.O. 740.—Notice is hereby given pursuant to Sub-Section (5) of the Section 247 of the Indian Companies Act VII of 1913 that the name of The Pearl Fabrics Limited has this day been struck off the Register and the said Company is hereby dissolved.

Bombay, the 18th February 1954

In the matter of the Indian Companies Act, VII of 1913 and of the M. G. Films of India Limited.

S.R.O. 741.—Notice is hereby given pursuant to Section 247 of the Indian Companies Act VII of 1913, that at the expiration of three months from the date hereof the name of the M. G. Films of India Limited, will, unless cause is shown to the contrary, be struck off the Register and the said Company will be dissolved.

In the matter of the Indian Companies Act VII of 1913 and the Visnagar Metal Works and Industries Limited.

S.R.O. 742.—Notice is hereby given pursuant to Section 172(2) of the Indian Companies Act 1913, that the Visnagar Metal Works and Industries Limited, has been ordered to be wound up by an order of the High Court of Judicature at Bombay, dated 8th January 1954 and that Court Liquidator Bombay has been appointed Official Liquidator of the company.

M. V. VARERKAR,
Registrar of Companies, Bombay.

Rajkot, the 16th February 1954

In the matter of Indian Companies Act, VII of 1913 and the Saurashtra Publications Ltd., Rajkot

PURSUANT TO SECTION 247(3)

S.R.O. 743.—Whereas one of the Directors of the Saurashtra Publications Ltd., has communicated in his letter, dated 5th February 1954, that the Company does not carry on any business nor it intends to carry on business;

And whereas it appears accordingly that the Saurashtra Publications Ltd., is not carrying on any business nor is in operation;

Notice is hereby given pursuant to Section 247(3) of the Indian Companies Act, VII of 1913, that unless cause is shown to the contrary, the name of the said Company will be struck off the Register and the said Company will be dissolved at the expiration of three months from the date of the notice.

V. V. BAXI,
Registrar, Joint Stock Companies, Rajkot.

Ajmer, the 17th February 1954

In the matter of M/s. The Rajputana Industries Limited Nasirabad

S.R.O. 744.—As no reply has yet been received from M/s. The Rajputana Industries Ltd. Nasirabad, notice pursuant to section 247(3) of the Indian Companies Act, 1913, is hereby given that at the expiration of 3 months from the date of this notice the name of the company shall, unless cause is shown to the contrary shall be struck off the register and the company shall be dissolved.

UNDER SECTION 247 (5) OF THE INDIAN COMPANIES ACT

In the matter of M/s. Mathura Prasad Shrivhare & Company, Limited Ajmer have not shown cause to the contrary in reply to the notice issued in pursuance of section 247(3) of the Indian Companies Act, 1913 and published at page 328 in the *Gazette of India*, Part III, Section 3, dated the 20th June, 1953, the name of the said Company M/s Mathura Prasad Shrivhare & Company Ajmer shall on publication of this notice in the *Gazette of India*, be struck off from the register of this office.

[No. A./XXI-a-35.]

D. D. UPADHAYA,
Registrar, Joint Stock Companies, Ajmer.

Hyderabad, the 18th February 1954

In the matter of Indian Companies Act, VII of 1913 and The New Sridhar Pandharinath & Co. Ltd. (in liquidation.)

S.R.O. 745.—It is hereby notified under sub-section (4) of Section 247 of Indian Companies Act, VII of 1913, that at the expiration of three months from the date of this notice the name of the above company will, unless cause is shown to the contrary, be struck off the Register and the company will be dissolved.

[No. 509.]

M. A. RASHEED,
Registrar Incharge, Joint Stock Companies,
Hyderabad, Dn.

MINISTRY OF LABOUR*New Delhi, the 17th February 1954*

S.R.O. 746.—In pursuance of paragraph 4 of the Employees' Provident Funds Scheme, 1952, the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the Ministry of Labour No. S.R.O. 1278, dated the 20th June 1953, namely:—

In the said notification for item (3) the following item shall be substituted, namely:—

“(3) Shri J. L. Kundu, I.A.S., Deputy Secretary to the Government of West Bengal, Finance Department, Calcutta”.

[No. PF.516(10).]

TEJA SINGH SAHNI, Under Secy.

New Delhi, the 17th February 1954

S.R.O. 747.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of an application under section 33A of the said Act from Sri Prasadi and eleven others, workmen of the Bhowra Colliery.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD**APPLICATION No. 104 of 1953****(Arising out of Reference No. 6 of 1952)**

In the matter of an application U/S 33A of Industrial Disputes Act 1947

PRESENT:Shri L. P. Dave, B.A., LL.B.—*Chairman.***PARTIES:**

1. Prasadi.
2. Ramchander.
3. Jageshwer.
4. Dharamdeo.
5. Bhagbandeo.
6. Basarat.
7. Abdul.
8. Harilal.
9. Surendeo.
10. Nandu.
11. Binda.
12. Ramlal—Tindal workers of Bhowra Colliery, P.O. Bhowra, Dist. Manbhum.—*Complainants.*

Vs.

1. Manager, Bhowra Colliery, P.O. Bhowra, Dist. Manbhum.
2. Mr. Mangal Singh, Contractor, Bhowra Colliery, P.O. Bhowra, Dist. Manbhum.—*Opposite Parties*

APPEARANCES:

- Shri Lalit Burman, Secretary, Bihar Trade Union Congress, near New Telephone Exchange, Dhanbad.
- Shri Basdeo Prasad, Committee Member, Eastern Coal Co. Colliery Workers Union, P.O. Bhowra, Dist. Manbhum.—*For the Complainants.*
- Shri S. K. Bhattacharaya, Chief Welfare Officer, M/s. Macneill & Barry Ltd., P.O. Dishergarh, Dist. Burdwan.—*For Opposite Party No. 1.*
- Shri Mangal Singh (in person).—*Opposite Party No. 2.*

AWARD

This is a complaint under Section 33A of Industrial Disputes Act.

2. The complaint purports to have been filed by 12 workmen of the Bhowra colliery alleging as under:—

An industrial dispute was pending before this Tribunal between the management of the Bhowra colliery and their workmen. The opposite party No. 2 was a contractor of opposite party No. 1. During the pendency of the above dispute, the opposite party No. 1 through opposite party No. 2 changed the conditions of service of the complainants by dismissing them on 5th June 1953 without any reasonable and probable cause and without obtaining any permission from the Tribunal. No charge-sheet was served on them. The dismissal was *malafide*. Until recently the complainants used to get their wages from opposite party No. 1 through opposite party No. 2 who used to make some deductions from their wages. The Union forced opposite parties No. 1 and 2 to agree to introduce direct payment by opposite party No. 1. Since this system would prevent the opposite party No. 2 from carrying on illegal deductions, he resorted to the dismissal of the complainants. The complainants therefore prayed that the order of dismissal should be set aside and they should be reinstated with payment of back wages etc.

3. The opposite party No. 1 contended *inter alia* that the complaint was not maintainable in law; that opposite party No. 1 was unnecessarily made a party; that opposite party No. 2 was a contractor and was given some contract work from time to time and he used to execute the work given to him with the help of men employed by him; that the opposite party No. 1 did not appoint or employ any of the complainants nor did he change the conditions of their service; that the complainants might have been employed by opposite party No. 2 to execute his work; that the complainants were never appointed or dismissed by opposite party No. 1; that opposite party No. 2 as contractor used to draw bills from opposite party No. 1 for work done by him and he used to pay the men employed by him; that it was not true that the union forced opposite party No. 1 to introduce direct payment; and that the complaint should be dismissed.

4. Opposite party No. 2 filed a written statement stating that the complainants were employed by him for executing contract work taken by him from the management; that the work was of a temporary nature and that the complainants knew it; that he was not a party to any reference and no application can lie against him under Section 33A of the Industrial Disputes Act.

5. As I said above, the present complaint purports to have been filed by 12 persons who were working in Bhowra colliery. They alleged that they were dismissed on 5th June 1953 during the pendency of Reference No. 6 of 1952 without the permission of the Tribunal and hence filed the present complaint under Section 33A of Industrial Disputes Act. A complaint under Section 33A has to be filed by the aggrieved workman or workmen and it has got to be signed by him or by them. The present complaint is not signed by any of the complainants. The heading of the complaint mentions names of 12 workmen represented by the President of the Eastern Coal Co. Colliery Workers' Union. No doubt an authority purporting to have been given by the 12 workmen authorising Mr. Mukherjee, President of the above said Union, to represent their case and act for them in this dispute has been filed with the complaint; but the fact remains that the complaint has not been signed by any of the complainants. It was therefore urged that the complaint should be thrown off on the ground that it is not signed by any of them. I need not decide this point in this complaint, because on merits, I am satisfied that the complainants have no case and that the complaint must be dismissed.

6. The manager of the Bhowra colliery is made opposite party No. 1 in the complaint and Mr. Mangal Singh, the Contractor of the colliery, is made opposite party No. 2. In the complaint itself, it has been stated that the opposite party No. 2 is a contractor of opposite party No. 1. It has also been stated that opposite party No. 1 changed the conditions of service of the complainants by dismissing them through opposite party No. 2. It is lastly stated that because a particular system of payment was got changed which prevented opposite party No. 2 from carrying on illegal deductions from the wages of the complainants, he resorted to the dismissal of the complainants.

7. Under Section 33 of the Industrial Disputes Act, an employer cannot dismiss or change the conditions of service of a workman during the pendency of a dispute before a Tribunal between the employer and the workman without obtaining the permission of the Tribunal; and if he does so the aggrieved workman or workmen can file a complaint against the employer under Section 33A of the Industrial Disputes Act. In the present case, reading the complaint as a whole

it would appear that the complainants were the workmen employed by the contractor Mangal Singh who is opposite party No. 2. As such, the complaint would not be maintainable against opposite party No. 1.

8. I may mention at this stage that whether the complainants are the employees of the management or of the contractor, they could not maintain this application against the contractor. The contractor is or was not a party to any reference and if he dismissed any of his employees, he could not be said to have committed a breach of Section 33. On the other hand, if the complainants were not his employees, then he was not their employer; and in that case also, no complaint would be maintainable against him. Thus so far as the opposite party No. 2 is concerned, the complaint is clearly not maintainable.

9. So far as the opposite party No. 1 is concerned, the complaint would be maintainable only if the complainants are the employees of the opposite party No. 1. As pointed out above, even the recitals in the complaint itself go to show *prima facie* that the complainants were the workmen of the contractor (opposite party No. 2) and not of the management (opposite party No. 1). At the hearing before me, only the complainant No. 6 was present. None of the other complainants was present, though the fact of their having given an authority to Mr. Mukherjee to file the complaint was challenged by both the opposite parties in their written statements. Apart from this, the evidence of the complainant No. 6 clearly shows that the complainants were the employees of the contractor and not of the management.

10. The complainant No. 6—Basarat—has been examined at Exhibit 11. He has stated that he was working under contractor Mangal Singh. He has further said that the contractor was paying him and the other complainants wages at the rate of Rs. 10-8-0 per week. He has admitted that no dearness allowance or free rice or attendance bonus was given to any of the complainants. He has then said that in May 1953 they began to be paid from the colliery office and were paid Rs. 14-7-0 per week for two weeks and after this Mangal Singh quarrelled with them and dismissed them and that when they approached the management, the management said that they had no work which could be given to them. In cross-examination, he admitted that all the complainants were recruited and appointed by Mangal Singh, and it was Mangal Singh who dismissed him. He also admitted that Mr. Mangal Singh was paying wages to them and that the management never made any payment of any sort to any of the complainants. He however said that during the last two weeks, the management made payments to them directly. This cannot be believed. In the first instance, it may be noted that Mangal Singh had taken a contract from the management and engaged the complainants for that work, as admitted by Basarat in the above deposition. The workmen were doing this work (for which Mangal Singh had taken a contract) not only during the two weeks when they were alleged to have been paid by the management but also for the previous weeks. It cannot be believed that the management would pay the complainants for work which they were doing on behalf of the contractor. Secondly it may be noted that in the complaint no allegation has been made that the complainants were ever paid directly by the management. On the other hand, it has been said that the Union forced the opposite parties to agree to introduce direct payment by opposite party No. 1 and because of this, opposite party No. 2 resorted to the dismissal of the complainants, because the new system would prevent him from making illegal deductions from their wages. This means that the allegation in the complaint was that it was only agreed that the management would make direct payments, but before the agreement was enforced, opposite party No. 2 dismissed the complainants. The allegation therefore that the complainants were paid directly for two weeks by the management cannot be believed.

11. As I said above, Basarat has admitted that the complainants were appointed by the contractor and were also dismissed by him. The management used to issue letters of appointment to its employees, but no such letter was ever issued to any of the complainants. No payment of any sort was ever made to the complainants by the management. These admissions in the deposition of complainant No. 6 read with the statements made in the complaint, establish beyond any doubt that the complainants were the employees of the contractor (opposite party No. 2) and not of the management (opposite party No. 1). They were also dismissed by the opposite party No. 2. Opposite party No. 1 cannot therefore be said to have in any way infringed the provisions of Section 33 of the Industrial Disputes Act and the complaint against them also is not maintainable.

In the result, the complainants are not entitled to any relief. The complaint fails and is dismissed. I pass my award accordingly.

(Sd.) L. P. DAVE, *Chairman*,

The 2nd February 1954.

Central Government's Industrial Tribunal, Dhanbad.

[No. LR.2(365).]

S.R.O. 748.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of an application under section 33A of the said Act, from Shri Hari Sao and five others, workmen of the Kustore Colliery:—

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD

APPLICATION No. 17 OF 1953

(Arising out of Reference No. 6 of 1952)

In the matter of an application U/S 33A of Industrial Disputes Act 1947

PRESENT:

Shri L. P. Dave, B.A., LL.B.—*Chairman*.

PARTIES:

1. Hari Sao,
2. Budhan Ram,
3. Sibani Nunia,
4. Raghubir Ram,
5. Puri Ram,
6. Bishuni —Workmen of Kustore Colliery.—*Complainants*.

Vs.

The Agent, Ranegunge Coal Association Ltd., Kustore Colliery, P.O. Kusunda, Dist. Manbhum.—*Opposite Party*.

APPEARANCES:

Shri S. P. Singh, Organising Secretary, Bihar Colliery Mazdoor Sangh, Kustore Colliery, P.O. Kusunda, Dist. Manbhum.—*For the Complainants*.

Shri D. N. Chakravarty, Personnel Officer, Kustore Colliery, P.O. Kusunda, Dist. Manbhum.—*For the Opposite Party*.

AWARD

This is a complaint under Section 33A of the Industrial Disputes Act.

2. This complaint was filed by six workmen of the Kustore Colliery, alleging that the opposite party had discharged them without any justification or notice and punished them by not paying their wages without any fault on their part. It was further alleged that this was done by the opposite party during the pendency of Reference No. 6 of 1952 without obtaining the permission of this Tribunal and thereby they contravened Section 33 of the Industrial Disputes Act; and hence the complaint. The complainants requested that they should be reinstated with full wages for their idle period.

3. The opposite party contended that the application was not maintainable. Regarding complainant Hari Sao, it was urged that he was not an employee of the management but was the employee of a contractor called Rahim and after the death of the said Rahim, the complainant left the work of his own accord and absented himself. Regarding Budhan Ram, it was alleged that this workman was served with a chargesheet on 3rd May 1952 for insubordination and indiscipline for not carrying out the instructions of the officer in charge of the stores. Budhan Ram put forth lame excuses, but as he offered an apology, he was excused. He was again chargesheeted for similar offences on different dates. Ultimately on 13th January 1953 he was served with a charge sheet for a similar offence which was held proved on investigation and he was therefore dismissed from 21st January 1953. Sibani Nunia was also found to be guilty of insubordination and disobeying of orders and he was also dismissed from 21st January 1953. Raghubir Ram was detected on 25th November 1952 having issued kerosene oil

to one Puran Singh without any requisition. A charge-sheet was served on him and on enquiry the charge was held proved and he was therefore dismissed. The other two workmen Puran Ram and Bishuni absented themselves from work without previous permission. Charge sheets were issued against them. Later on they approached the manager and asked for pardon and they were thereupon reinstated* and hence there could not be any complaint on their behalf.

4. The complaint, as I said above, was made by six workmen of the Kustore Colliery. Two of them, namely, Puran Ram and Bishuni, approached the management soon after filing the present complaint and they have been reinstated. The management urged that they had remained absent of their own accord and that is why a charge sheet was served on them. But before any action was taken on the charge sheet, they approached the manager with an apology, and so they have been taken back in service. These workmen did not appear before me on the date of hearing and Shri S. P. Singh, who appeared for the complainants, gave up the cases of these two workmen, admitting that they had been reinstated in their jobs by the opposite party. The case therefore survives for the other four complainants. I shall proceed to discuss their cases one by one.

5. *Hari Sao*.—The management urge that this complainant was appointed by a contractor of theirs named Rahim, who died in about January 1953, and thereafter Hari Sao left the work of his own accord. The opposite party further urged that they had neither employed nor discharged Hari Sao. In his deposition, Hari Sao, said that he was working as a tub repairer and that Rahim was their sirdar. He further said that Rahim had no authority or power to appoint or discharge a workman and only the manager of the colliery had this power. He admitted that wages were paid to him by the Sirdar at his (Sirdar's) house from the money he received from the colliery. In cross-examination, he has admitted that he had first approached the manager for service, and the manager told him at that time that there was no vacancy under him; but he gave him a note addressed to Rahim and told him that if Rahim had any work and if there was any vacancy under Rahim, he (that is, Rahim) would appoint him. He also admitted that there was no vacancy under the management and so he was sent to Rahim. This clearly shows that his allegation that he was appointed by the manager is not correct. It also shows that there was no vacancy under the management and the manager could not appoint him to any job; but that there was some vacancy under the contractor and so the contractor appointed him to that job.

6. In the course of his further cross-examination, Hari Sao stated that on Rahim's death his contract work was done by his brother-in-law. Even in the course of the examination in chief, he unwittingly admitted that after the death of Rahim, another person was working as contractor in his place. After making this statement he realised that he had made the admission and he then turned round and said that he was not a contractor but only a Sirdar. I am thus satisfied that Rahim was working as a contractor and not as a Sirdar, and that the complainant was an employee of Rahim as a contractor and he was not an employee of the management.

7. The books of the management also support this. They made payments to Rahim according to the work done by him. Hari Sao also admits this. He also admits that out of the amount received by Rahim, he used to pay the wages of Hari Sao and others at his (Rahim's) house. The payment to the workmen at the contractor's house is also significant. These facts would also go to show that Hari Sao was an employee of the contractor and not of the management.

8. Hari Sao has said that he was getting all advantages like dearness allowance, bonus, provident fund etc. He has however not said that the management was making these payments. But assuming that the management was making these payments, it would not make him an employee of the management because the management is under a statutory obligation of making these payments even to workmen employed by contractors. That being so, this circumstance would not make Hari Sao an employee of the management.

9. I may state here that in his deposition, Hari Sao stated that he had taken an active part in decorating the Union office for celebrating the Republic Day on 26th January 1953 and for this, he was asked to apologise; and on his refusal, he was dismissed. No such allegation has been made in the complaint. There is no evidence on the point beyond Hari Sao's word. I do not believe these allegations.

10. On the whole, I hold that Hari Sao was not an employee of the management but he was an employee of the contractor Rahim. I further hold that he

was appointed to his job by Rahim and not by the management. I am not satisfied that the management discharged him. That being so, he can have no grievance or remedy against the opposite party. His complaint must therefore be dismissed.

11. *Raghubir Ram*.—This complainant was working as a store boy and oil issuer in the Central Stores of the colliery. The management alleges that on 25th November 1952 this workman issued kerosene oil to one Puran Singh without any requisition and this amounted to misappropriation of the property of the management. He was thereupon served with a charge sheet on 27th November 1952. He replied to it on 29th November 1952 stating that he had not given oil to Puran Singh and the charge levelled against him was false. The management held that the charge against him was proved and he was thereupon dismissed.

12. In his evidence Exhibit 12, Raghubir has denied that he had given any kerosene oil to Puran Singh. He has alleged that though a charge sheet was served on him, no enquiry was held by the management. He has further alleged that at that time he was living in the servants' quarters of the manager Mr. Ahuja and because he refused to do domestic work of Mr. Ahuja, false action was taken against him. Mr. Ahuja has denied that he asked the complainant to do any domestic work of his. It may be noted that this allegation of Raghubir against the manager has not been made in the complaint nor did the complainant ever make a complaint in this connection to any one.

13. As I said above, Raghubir was served with a charge sheet on 27th November 1952 and he replied to it on 29th November 1952. It appears that on 3rd December 1952, an enquiry was held in the matter by the Personnel Officer, who recorded the statements of at least three persons namely, Charan Singh, Rasul Mistry, and Baxit Singh. Raghubir has admitted in his cross-examination that on 3rd December 1952, the Personnel Officer recorded the statements of these persons in his presence, and that they stated at that time that he (Raghubir) had given kerosene to Puran Singh. He has further alleged that Puran Singh was also examined at that time and he denied that Raghubir had given him kerosene. It would thus be clear that the previous allegation of Raghubir that no enquiry was made in the matter is not true. As admitted by him, an enquiry was held by the management on 3rd December 1952 when the statements of different persons were recorded in his presence and three of these witnesses definitely stated that Raghubir had given kerosene to Puran Singh.

14. Raghubir has alleged that there was some previous quarrel between him and Charan Singh; but admittedly he had no quarrel with Rasul and Baxit Singh. Rasul Mistry has definitely said that he saw Puran Singh getting his tin filled with kerosene oil by Raghubir at the store window from inside the store room and Puran Singh left immediately with the tin and he was brought back by Baxit Singh, and that at that time, he (Raghubir) entreated Rasul to persuade Charan Singh not to report the matter to the manager. Baxit Singh's statement corroborates this statement of Rasul.

15. We have also the evidence of the manager Ahuja, Exhibit 13. He has said that the complainant Raghubir approached him and admitted his guilt and requested for a pardon. From these facts, it would be clear that Raghubir had given kerosene oil unauthorisedly to Puran Singh. At any rate, there was evidence before the management from which the management could come to the conclusion that Raghubir's guilt was proved. The allegations of Raghubir against the manager are not true and cannot be believed.

16. If a person who was in charge of kerosene oil was found giving it to unauthorised persons, that is, if he was found guilty of misappropriation, it could not be said that his punishment was unjustified or that the punishment of dismissal was severe. In my opinion, Raghubir's dismissal is proper and he cannot be ordered to be reinstated. His complaint must be dismissed.

17. *Budhan Ram and Siban Nunia*.—The cases of these two complainants may be considered together. Both of them were working as loading coolies, and were served with charge-sheets on 13th January 1953. The charges against both were in identical terms. They were "insubordination and disobeying the orders of in-charge to load wagons and instigating co-workers to strike work". Both of them gave replies denying the above charges. The management however dismissed them from 21st January 1953 by their letter of even date addressed to the loading supervisor. The complainants urge that their dismissal was wrongful and also that the management had committed a breach of Section 33 of Industrial Disputes Act by dismissing them without obtaining the permission of this Tribunal.

18. There can be no doubt that the management have committed a breach of Section 33 of Industrial Disputes Act. On the above date, namely on 21st January 1953, when they dismissed these two complainants, Reference 6 of 1952 was pending before this Tribunal. The opposite party and their workmen were parties to this reference. The management could not therefore discharge or dismiss any workman without obtaining the permission of this Tribunal. Admittedly no such permission was obtained before dismissing these two workmen. The management have therefore clearly contravened the provisions of Section 33 of Industrial Disputes Act.

19. The question then is whether the dismissal of the complainants was proper. As I said above, both these complainants were charged with insubordination and disobeying the orders of in-charge to load wagons and instigating co-workers to strike work. At the outset, I may mention that the charge sheet does not mention the date on which the misconduct is said to have taken place. It has now been said that it was on the morning of 13th January 1953 that the two complainants disobeyed the orders of the leading Sirdar and instigated other workers to strike work. It has also been alleged that both of these workmen were guilty of similar offences in the past and that a number of charge sheets had been served on them for the same and it was as a result of the cumulative effect of their conduct that they were dismissed. The management have produced six charge sheets including the charge sheet of 13th January 1953 issued against the complainant Budhan Ram. They have also produced three charge sheets including that of 13th January 1953 issued against Sibani Nunia. The charge sheets against Budhan Ram are dated 3rd May 1952, 18th August 1952, 5th October 1952, 6th October 1952, 8th October 1952, and 13th January 1953, while those against Sibani Nunia are dated 2nd September 1952, 24th December 1952 and 13th January 1953. In other words, the charge sheets against Budhan Ram began from 3rd May 1952 and against Sibani Nunia from 2nd September 1952 and they followed in quick succession. The charges in almost all charge sheets are gross insubordination and not carrying out the instructions of the officer in charge.

20. It may be noted that the complainants had been serving in the colliery for a long time. Admittedly no charge sheet was ever served on them before the above charge sheets. It is unnatural and improbable that an old worker with a satisfactory record of service would all of a sudden become insubordinate and begin to disobey orders of his superior officers. The complainants' case is that they were served with charge sheets because of their union activities. It is admitted by the manager of the colliery Mr. Ahuja in his evidence, Exhibit 13, that there was a labour union in the colliery recognised by the management and that one Satnarayan Singh, who was a leading supervisor, was Secretary of the Union. He has also admitted that from about May 1952, Mr. S. P. Singh (who has represented the complainants in this case) has been organising a rival union in the colliery, but his union has not been recognised by the management. It is significant to note that the charge sheets in the present case started almost immediately after the formation of this new union and followed in quick succession. I think that it must be as a result of the union activities of the present complainants who must have joined the new union (which is not recognised by the management) that they were served with successive charge sheets.

21. It may be noted that Mr. Satnarayan Singh, the leading supervisor, is the Secretary of the recognised union and the present complainants are said to have disobeyed him and the leading Sirdar Dilip Singh. It is easy for the leading supervisor or the leading sirdar to allege insubordination and also to allege that a particular workman disobeyed his orders. As late as 18th August 1952, the complainant Budhan Ram had alleged in his reply to the charge sheet served on him that his Sirdar Dilip Singh was not giving him the correct amount of his wages and he had therefore a quarrel with him. In his reply to the charge sheet of 5th October 1952 also, the complainant has made allegations against Dilip Singh. In other words, Dilip Singh and Satnarayan Singh could not be said to be disinterested persons, so far as the charges against the complainants were concerned.

22. Before proceeding further, I may point out that the manager Mr. Ahuja had to admit that excepting in the case of the last charge sheet (i.e. dated 13th January 1953), no enquiry appeared to have been made by the management and still we find endorsements on every charge sheet about the complainant having been warned or about his having been pardoned. In the charge sheet against the complainant Budhan Ram, dated 8th October 1952, the manager in his recommendation to the Agent has stated, "as decided by us, his work may be stopped". This shows that the Manager was already prejudiced against the complainant Budhan Ram and had decided to dismiss him. At that time, however, the only order passed against the charge sheet was that he should be strongly warned and given a last chance.

23. Coming to the last charge sheet, as a result of which these two persons were dismissed, they, as I said above, allege insubordination and disobeying of lawful orders and instigation of co-workers to strike work. As I pointed out above, the charge sheets do not mention the time or even the date when this misconduct is said to have taken place. Before this incident is said to have taken place, the manager had already written a letter to the complainants on that very day to the effect that it had been reported to him that in spite of repeated cautions from their in-charge, they were still persisting in bad loading of wagons which was against the interest of the company and that their action amounted to insubordination. It was further mentioned in the letter that the complainants were reported to fight and abuse with their co-workers and superiors and that all these were serious allegations which could lead to their dismissal. The manager therefore gave him a last chance by warning them to desist from these activities failing which they were likely to be dismissed from work. The manager has stated in his evidence that on 12th January 1953 the loading supervisor and loading Sirdar had reported to him that the above two persons were not obeying his orders and so he sent a letter to the complainants in the morning of 13th January 1953. It was after this that the loading supervisor came to him at about 7-30 or 8 A.M. and told him that these two workmen were disobeying his orders and they were asking others not to work and also threatened others not to work. It would thus appear that the manager, on the oral complaint made to him by the loading supervisor and loading Sirdar on 12th January 1953, issued the above letter without satisfying himself whether the allegations made by the loading supervisor and the loading Sirdar were correct or not. Even in the morning of 13th January 1953, as soon as the loading supervisor came to him and told him about the complainants disobeying his orders, he issued charge sheets without taking a complaint in writing from the loading supervisor. It would thus appear that the manager was prejudiced against the complainants and was prepared to accept the bare word of the loading supervisor and the loading Sirdar, even without verifying whether what they said was true and without asking an explanation from the complainants.

24. As I said above, the charge sheets were served on the complainants on 13th January 1953. They replied to it on 16th January 1953 denying those allegations. It is said that after this an enquiry was held by the Personnel Officer on 17th January 1953 and as a result the management were satisfied that the charges were proved and so they dismissed the complainants. Regarding the alleged enquiry of the 17th, I am not satisfied that it was held. At any rate, it was not a proper enquiry. The Personnel Officer, who is said to have held the enquiry, has not been examined nor are Dilip Singh or Satnarayan Singh, whose statements are alleged to have been recorded by him. It is said that the Personnel Officer went to the Manager's office in the evening of 17th and thereupon the manager sent a peon to call the complainants. The peon returned and orally reported that these persons were not coming. After this the Personnel Officer orally questioned Dilip Singh and Satnarayan Singh and then asked them that they should write out what they had to say. They accordingly got some statements written out and handed them over to the Personnel Officer. I was not satisfied that Budhan or Sibani (the complainants) were sent for on the 17th. The peon who is said to have gone to call them has not been examined. It amounted to oral summons asking them to attend the enquiry immediately. No explanation is given as to why a letter in writing was not sent to them as was done in the case of the letter dated 13th January 1953 issued to them in the early morning of that day. Again to ask a man to attend an enquiry immediately the peon goes to call him cannot be said to be reasonable. A person must be given reasonable and sufficient time to attend an enquiry. I am not satisfied that the complainants had been given any information about the enquiry nor am I satisfied that even if the information was given, it was sufficient or reasonable. An enquiry held *ex-parte* without informing the persons affected by it has no value.

25. It has then to be noted that the only statements recorded at the enquiry are those of Dilip Singh and Satnarayan Singh. As I pointed out above, these persons could not be said to be independent persons so far as the complainants are concerned. At the time of the alleged incident, other workmen were also present; but none of them was called nor was anyone's statement recorded. I may also point out that in the statement of Dilip Singh, he has made an allegation that the complainant Budhan Ram took a piece of coal to assault Satnarayan Singh. No such allegation has been made in the statement of Satnarayan Singh or in the charge sheets served on the complainant. This would go to show that Dilip Singh wanted to make the case as black as possible against Budhan Ram.

26. Thus I hold that the charge sheets were vague and that no proper enquiry was held in the matter. Even if an inquiry was held, it was only a sham inquiry,

just for showing that the management had evidence before it to prove the misconduct. No information was given about the alleged inquiry to the complainants. Statements of all persons who were present were not recorded. The statement of only two persons were recorded and these persons could not be said to be independent witnesses. The manager was already prejudiced against the complainants and was already prepared to accept the statements of the loading supervisor and the loading Sirdar without verification or without corroboration or without hearing the other side. The manager and the Agent appeared to have already decided to dispense with the services at least of Budhan Ram. The whole action of the management is not *bona fide*. Their findings also appear to me to be perverse. The dismissal of the complainants in the circumstances is bad and improper.

27. The result is that the complainants Budhan Ram and Sibani Nunia are entitled to be reinstated. They should be reinstated to their posts if they offer themselves for the same within ten days of the award becoming enforceable. They should also be paid their back wages including dearness allowance and all other benefits as if they were on duty all along. The arrears should be paid to them within a month from the award becoming enforceable. So far as the other complainants are concerned, they are not entitled to any relief and their complaint is dismissed. I pass my award accordingly.

The 2nd February 1954.

(Sd.) L. P. DAVE, Chairman,

Central Government's Industrial Tribunal, Dhanbad.

[No. LR.2(365)/I.]

S.R.O. 749.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of an application under section 33A of the said Act from Shri Jalil Mian, a workman of the Bhowra Colliery.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD

APPLICATION No. 105 of 1953

(arising out of Reference No. 6 of 1952)

In the matter of an application U/S 33A of Industrial Disputes Act, 1947.

PRESENT:

Shri L. P. Dave, B.A., LL.B.—*Chairman*.

PARTIES:

Jalil Mian, Bhowra Colliery, P.O. Bhowra, Dist. Manbhum, Bihar.—*Complainant*.

Vs.

- | | |
|--|----------------------------|
| 1. M/S. Eastern Coal Co. Ltd., P.O. Bhowra, Dist. Manbhum; | } <i>Opposite Parties.</i> |
| 2. Manager, Bhowra Colliery, P.O. Bhowra, Dist. Manbhum. | |

APPEARANCES:

Shri Lalit Burman, Secretary, Bihar Trade Union Congress, Near New Telephone Exchange, P.O. Dhanbad, and

Shri Basdeo Prasad, Committee Member, Eastern Coal Co. Colliery Workers Union, P.O. Bhowra, Dist. Manbhum, Bihar.—*For the Complainant*.

Shri S. K. Bhattacharya, Chief Welfare Officer, M/S. Macneill & Berry Ltd's Collieries, P.O. Dishergarh, Dist. Burdwan (West Bengal).—*For Opposite Party No. 1 & No. 2*.

AND

Shri R. N. Choudhury, Assistant Chief Welfare Officer,

AND

Mr. H. W. Briggs, Group Personnel Officer.

AWARD

This is a complaint under Section 33A of Industrial Disputes Act.

2. It is alleged that an industrial dispute in Reference No. 6 of 1952 was pending before this Tribunal between the management of the Bhowra Colliery and its workmen and that during the pendency thereof the management changed the

conditions of the complainant's service by dismissing him on 3rd October 1952 without any reasonable and probable cause and without obtaining any permission from the Tribunal. It was therefore urged that the order of dismissal should be set aside and the complainant should be reinstated, with payment of back wages etc.

3. The management, by their written statement Exhibit 5, contended that the complaint was not maintainable; that on 1st September 1952 the complainant was absent from duty without permission or intimation in consequence of which the management was put to great financial loss as the main pump was idle for the whole night and was on the point of being drowned and a few working places had to be abandoned for stagnation of water. It is then alleged that on 9th September 1952 the complainant after starting the pump in the morning left his work during his duty period and was found loitering at the bottom of seam No. 10 where he had no duty to perform, and that his absence from the place of duty during work hours without permission amounted to a misconduct. It is lastly alleged that charge sheets were served on him and a thorough enquiry was made and it revealed that the complainant was guilty of charges brought against him, and that looking to the gravity of the offence, he was dismissed. It is therefore urged that the complaint should be dismissed.

4. It is an admitted fact that the complainant Jalil Mian was working as a pump khalasi in Bhowra colliery. He was served with an order of dismissal on 3rd October 1952. At that time, Reference No. 6 of 1952 was pending before this Tribunal. The opposite party and their workmen were parties to that reference. No permission was obtained from the Tribunal before dismissing the complainant. It would thus be clear that the opposite party has contravened the provisions of Section 33 of the Industrial Disputes Act. The complainant has therefore filed the present complaint under Section 33A of the Industrial Disputes Act.

5. A preliminary objection was raised against the maintainability of this complaint, on the ground that it was not signed by the complainant. Under Section 33A, an aggrieved workman can file a complaint against the employer and such a complaint is required to be signed by him. The present complaint is filed by "Jalil Mian represented by President of the Eastern Coal Co. Ltd. Workers Union." It does not bear the signature of the Jalil Mian, but only of Mr. Chinmoy Mukherjee, President, Eastern Coal Co. Workers Union, and that too not below the complaint but below the verification of the complaint. In any case, it is not signed by the complainant. No doubt the complaint is accompanied by an authority signed by the complainant authorising Mr. Mukherjee to represent the case and to act for him in the matter; but this would be only an authority under Section 36 of the Industrial Disputes Act. The complaint cannot be said to have been signed by the aggrieved workman. I need not however give a definite finding about the maintainability of the complaint on this ground, because I am satisfied that on merits the complaint must be dismissed.

6. As I said above, the complainant was dismissed by an order dated 3rd October 1952. The order of dismissal is Exhibit 29 and refers to charge sheets No. 972 and 976 against him. It is admitted by the complainant in his deposition that he was served with these charge sheets. Charge sheet No. 972 is dated 8th September 1952 and thereunder he was charged with absentsing himself on 1st September 1952 without permission. The charge sheet No. 976 is dated 9th September 1952 and under it, he was charged with being found at the bottom of Seam No. 10 at 10 A.M. that morning and not near the pump which was then working. The opposite party's case is that these charges were proved against the complainant and that is why he was dismissed.

7. In his deposition the complainant has stated that the real reason for his dismissal was that he had a quarrel with one Kedar Singh on the night of 1st October 1952 while he was working underground and that Kedar Singh was Secretary of the I.N.T.U.C. union which is recognised by the management and that is why he was got dismissed by Kedar Singh. I may mention at this stage that no allegation of this sort has been made in the complaint. Actually the complaint contains no allegations of victimisation or unfair labour practice or want of bona fides on the part of the management. I may also mention that at the time of arguments before me, Mr. Burman who appeared on behalf of the complainant stated that he did not charge the manager of the colliery with any bad motive or the like and that all that he urged was that the complainant was dismissed at the manoeuvring of the I.N.T.U.C. union. I may say that there is nothing to justify this allegation. No doubt the I.N.T.U.C. union is the union recognised by the management; but it does not follow therefrom that the dismissal was manoeuvred by that union.

8. It may be that the complainant had a quarrel with the Secretary of the other union on the night of 1st October 1952; but that would not necessarily mean that he was dismissed because of that. Admittedly the complainant had already been served with the charge sheets above referred to and it was as a result of those charge sheets that he was dismissed. It is to be noted that the manager of the colliery Mr. Rowe has stated in his deposition Exhibit 37 that he has no power of dismissal and the power of dismissal lies with the Superintendent of Collieries. He has further said that he had to send his recommendations to the Superintendent through the Agent of the colliery and the Group Agent. In the present case, the order of dismissal Exhibit 29 was actually passed by the manager on 3rd October 1952; but it was on the basis of a letter, Exhibit 39, dated 1st October 1952, received by him from the Superintendent of Collieries. In other words, the Superintendent of Collieries had passed an order of dismissal of the complainant before the alleged quarrel between the complainant and Kedar Singh. It cannot be believed that the complainant's dismissal was as a result of that quarrel.

9. It does appear that the complainant alleged on 2nd October 1952 that he had been assaulted the previous night by Kedar Nath. He made a complaint about it on 2nd October 1952 to the Agent of the colliery and also filed a similar complaint at the police station. Assuming these allegations to be true, they would have no bearing on the present case; because this complaint was filed on the eve of his dismissal. He had already been served with charge sheets on 10th September 1952 and 11th September 1952 and it was as a result of those charge sheets that he was dismissed. I may here point out however that the complainant does not have much regard for truth. In his letter to the manager Exhibit 36, which he gave on 23rd October 1952, he alleged that on 10th October 1952, he had placed an application for the manager's consideration and the manager personally told him that after getting information from Dishergarh, he would get back his job. The manager has made an endorsement below this application on the very day that the complainant was not promised his job and that he could not be considered for any work at Bhowra. In his deposition before the Tribunal, the complainant has admitted that when he gave the application to the manager, the manager told him that he had no work for him. He has further admitted that the manager never told him that he would give him work. This means that the allegations made by the complainant in the letter Exhibit 36 were not true.

10. It has then been said that the complainant was a member of a Union which was not recognised by the management and that he was pressed to join the I.N.T.U.C. union and as he did not do so, he was dismissed. There is no evidence to support this allegation. The complaint does not contain any such allegation, nor has such an allegation been made in the deposition of the complainant. All that he has said is that he was a member of the Red Flag Union. He has not alleged that he was an active member thereof nor has he alleged that he was dismissed because of his trade union activities. This contention raised during arguments cannot therefore be accepted.

11. The principles to be followed in such cases have been laid down in the well known case of Buckingham and Carnatic Mills Limited, 1951, Vol. II, L.J.L.J., p. 314. It has been held therein that the Tribunal is not sitting in appeal against the findings of the management and should not interfere, if on the evidence before it, it was possible for the management to hold the charges proved. It has also been held that the *bona fides* of the management must be considered in dealing with cases of this type.

12. As I said above, there is no allegation of want of *bona fides* on the part of the management in the present case. The management had also evidence before it from which it could come to the conclusion that the charges against the complainant were proved and the Tribunal would therefore not be justified in interfering with the findings of the management. As a matter of fact, after hearing the evidence, I am satisfied that the charges against the complainant are true and that the action taken by the management is proper.

13. The first charge against the complainant was that he absented himself on 1st September 1952 without permission. In his deposition, the complainant has admitted that he was absent on that day. The explanation now given by him is different from the explanation given by him in his reply to the charge sheet. At that time he had alleged that the overman had ordered that he should work for the whole week including Sundays and that he could take rest on any day in the week. He has further said that the charge sheet was being issued against him for taking a rest day. In other words, his reply to the charge sheet went to show that it was his option as to when he should take the rest day and that he had taken it on 1st September 1952. In his deposition, he has alleged that he

had been given rest day on 1st September 1952 by overman Chatterji, and that is why he had remained absent that day. If this was a fact, he would have stated so in his reply to the charge sheet; i.e. he would have said that he had taken permission of Chatterji; but he did not make any such allegation but said that he was entitled to a rest day on any day in a week. It may then be noted that the complainant was given a rest day on 3rd September 1952 as admitted by him. He however alleges that 3rd September 1952 was really not his rest day; but when he went to attend duty, the overman Chatterji did not allow him to work; saying that he had not given him rest day on 1st September 1952. If Chatterji had really given permission to the complainant on 1st September 1952 to take rest day, there was no reason why the complainant should have been given another rest day on 3rd September 1952 and there is no reason why that Chatterji should have told the complainant on 3rd September 1952 that he had not given him a rest day. From the evidence of the manager Mr. Rowe, it appears that the absence of the complainant on 1st September 1952 came as a surprise to them. They learnt about it only when he did not attend duty and they could not make any alternate arrangement to work the pump because they had not sufficient time to do so. He has further said that as a result of the pump remaining idle that night, several working places were drowned. If the complainant had been given a rest day by the overman, alternate arrangements would have been made to work the pump and the fact that no such arrangements were made go to show that the allegation of the complainant that he had been given a rest day on 1st September 1952 cannot be believed.

14. We have then the fact that the management had before them the statement of Amir Chand, overman in charge, that the complainant did not attend duty on the night of 1st September 1952. There is also the statement of Mining Sirdar Maku Mahato that the complainant did not attend duty on 1st September 1952. These two statements also show that the complainant had been given a rest day on 3rd September 1952 and still remained absent on 1st September 1952. The complainant admits his absence from duty from 1st September 1952. From the evidence and circumstances in the case, his explanation that he had been given a rest day on 1st September 1952 cannot be believed. This would go to show that he was absent from duty without permission and his absence from duty resulted in a considerable financial loss to the management. I think that even on this charge alone the management would have been justified in dismissing him.

15. There is another charge against the complainant and it is that on 9th September 1952 he was found loitering at 10 A.M. at the bottom of seam No. 10 at a place away from the place of his duty. It is said that he had kept the pump working and absented himself from that place. If this allegation is true it would also be a serious misconduct; because it would not be proper that he should have left a working pump unattended, as it might lead to a serious accident. His explanation is that at the time when he was found by overman Amir Chand near seam No. 10, he was not on duty, but he was just going to his duty and the question therefore is whether at the time when he was found by Amir Chand at Seam No. 10, the complainant was already on duty or was yet to join his duties. In this connection, the management had before it the statement of Amir Chand Singh Exhibit 19 and statements of two persons Mukund and Raghunath Kumar Exhibits 20 and 21. These persons were admittedly with Air Chand when he found the complainant near Seam No. 10. These persons have stated that they found the complainant at seam No. 10 at 10 A.M. They further say that when the overman Amir Chand asked him and told him that though his pump was working, he was at another place, the complainant said that he was in the mine; meaning thereby that he was not bound to be near the pump and his presence inside the mine was enough.

16. The complainant in his evidence says that it was at 9 A.M. that he was found near Seam No. 10. He says that his hours of duty were from 9 A.M. to 5 P.M. and that it was while he was on his way to duty that he was found at seam No. 10 by the overman. The manager Mr. Rowe has told us that the pump Khalasis work in three shifts in the monsoon and also that in September they were working in three shifts. He has also said that pump khalasis work in two shifts from about November and December to about June. When they work in three shifts, the hours of the shifts are (1) from 6 A.M. to 2 P.M. (2) 2 P.M. to 10 P.M. and (3) 10 P.M. to 6 A.M. When the pump works two shifts, the hours of work are from (1) 9 A.M. to 5 P.M. (2) 9 P.M. to 5 A.M. The allegation of the complainant that he was going to his duty at 9 A.M. cannot be believed because at that time, the pump was working in three shifts and the hours of duty must have started at 6 A.M. It cannot be believed that the pump was then working only two shifts. In this connection, I may point out that only 8 days ago (namely on 1st September 1952) the working places were flooded with water because the pump did not

work at night due to the complainant's absence. This would mean that the continuous working of the pump must have then been necessary. It cannot be believed that at that time the pumps worked only 16 hours every day as is alleged by the complainant. I believe Mr. Rowe's statement when he says that in September the pumps were working three shifts, i.e. throughout all 24 hours every day. That would mean that the complainant's hours of duty could not have started at 9 A.M. but must have started at 6 A.M. His being found at seam No. 10 away from the pump at about 9 A.M. would mean that he had left the place of his duty and was loitering about in the mine, though the pump must have been working. Even if his hours of work were from 9 A.M., the statements of the above witnesses would show that the complainant was found away from his duty at 10 A.M. On the whole I am satisfied that the complainant was found away from his duty on 9th September 1952 though his pump was working and that also amounted to serious misconduct. On this charge also, the management were right in dismissing him.

17. I may then mention that the complainant's service and conduct were not satisfactory. He had been served with no less than 8 or 9 charge sheets between 1948—1952. He was warned on one occasion and on another occasion he was suspended for three days and on a third occasion he was given a final warning. It is now said that all these charge sheets were given because of his union activities; but it may be remembered that he never made any such allegation before. Further some of these charge sheets were served on him even during the period that he was a member of the I.N.T.U.C. union and also during the period when the leaders of the other union were detained in jail and that union must not therefore have been actively functioning. The allegation made in this connection cannot therefore be believed.

18. On the whole, I am satisfied that the two charges namely that the complainant was absent from duty on 1st September 1952 without leave and that he was found loitering away from his place of duty leaving the pump unattended on 9th September 1952 are true, and that the punishment passed by the management is therefore justified. I do not believe that this is a case of unfair labour practice or victimisation. I do not think that there has been want of *bona fides* on the part of the management. As the dismissal of the complainant was proper, he is not entitled to be reinstated nor is he entitled to any other relief. His complaint fails and is dismissed. I pass my award accordingly.

The 3rd February 1954.

(Sd.) L. P. DAVE, *Chairman*,

Central Government's Industrial Tribunal, Dhanbad.

[No. LR.2(365)/II.]

New Delhi, the 19th February 1954

S.R.O. 750.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of an application under section 33A of the said Act from Shekhar Talukdar, Pump Khalasi, a workman of Surindra East Loyabad Colliery.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD

APPLICATION No. 475 OF 1953

(Arising out of Reference No. 6 of 1952)

In the matter of an application U/S 33A of Industrial Disputes Act 1947

PRESENT:

Shri L. P. Dave, B.A., LL.B.,—*Chairman*.

PARTIES:

Shekhar Talukdar, Pump Khalasi, Surindra East Loyabad Colliery, P.O. Kusunda, Dist. Manbhum.—*Complainant*.

Vs.

M/S. Surindra East Loyabad Colliery Co., Surindra East Loyabad Colliery, P.O. Kusunda, Dist. Manbhum.—*Opposite Party*.

APPEARANCES:

No appearance on behalf of the Complainant.

Shri Bishwanath Agarwalla, Partner, Surindra East Loyabad Colliery Co., P.O. Kusunda, Dist. Manbhum.—*For the Opposite Party*.

AWARD

This is a complaint under Section 33A of Industrial Disputes Act. It was filed on 12th December 1953.

2. The complainant alleged that the opposite party dismissed him on 9th October 1953 without any reason or probable cause and without obtaining any permission from this Tribunal, though Reference No. 6 of 1952 was then pending between the opposite party and its workmen. He therefore prayed that the order of dismissal should be set aside and he should be ordered to be reinstated.

3. A notice was issued to the opposite party to file its reply on 16th January 1954; but on that day, it applied for time and accordingly time was given till 27th January 1954 for filing its written statement. On that day, the opposite party did not file a written statement, but filed an application stating that the dispute had been settled between the parties on 22nd January 1954 before the Conciliation Officer, Dhanbad, and that both parties had come to an agreement and put their signatures on the settlement. A copy of the agreement was produced along with the application. The opposite party prayed that the complaint should therefore be dismissed.

4. The matter was thereupon fixed for hearing today. (8th February 1954), and notices were issued to both parties about it. The complainant did not appear before me today nor did Mr. Burman who was authorised by the complainant to represent him in the case. The opposite party has produced a memorandum of settlement reached between itself and the complainant on 22nd January 1954. This compromise was arrived at in the presence of the Conciliation Officer, Dhanbad. The parties and also the Conciliation Officer have signed this memorandum. Under Section 18 of the Industrial Disputes Act, this settlement would be binding on the parties. Under this settlement, the complainant was to be paid a lump sum of Rs. 65 in full and final settlement of his case. He also agreed that he had no other claim on the management.

5. In view of the above agreement and in view of the absence of the complainant and also in view of there being no evidence in support of the complainant, the complaint fails and must be dismissed.

I pass my award accordingly.

The 8th February 1954.

(Sd.) L. P. DAVE, *Chairman,*

Central Government's Industrial Tribunal, Dhanbad.

[No. LR.2(365).]

S.R.O. 751.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of an application under section 33A of the said Act from Shri Triloki Mistry, workman of Jamadoba Colliery.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD

APPLICATION No. 399 OF 1953

(Arising out of Reference No. 6 of 1952)

In the matter of an application U/S 33A of Industrial Disputes Act 1947

PRESENT:

Shri L. P. Dave, B.A., LL.B.,—*Chairman.*

PARTIES:

Shri Triloki Mistry, Carpenter of Central Workshop, Jamadoba, P.O. Jealgora, Manbhum.—*Complainant.*

Vs.

M/S. Tata Iron & Steel Co. Ltd., Jamadoba, P.O. Jealgora, Dist. Manbhum.—*Opposite Party.*

APPEARANCES:

Shri B. N. Sharma, General Secretary, Tata's Collieries Labour Association, P.O. Jealgora, Dist. Manbhum.—*For the Complainant.*

Shri D. Narsingh, Chief Personnel Officer, M/S. Tata Iron & Steel Co. Ltd., P.O. Jealgora, Dist. Manbhum.—*For the Opposite Party.*

AWARD

This is a complaint under Section 33A of Industrial Disputes Act.

2. The complainant alleged that he was working as a carpenter in the workshop of the opposite party and was unjustly suspended from 25th June 1953 to 21st July 1953; that this happened during the pendency of Reference No. 6 of 1952, to which the opposite party and their workmen were parties; that the complainant was allowed to work from 21st July 1953 because of representations made by him but he was not paid any wages for the period of suspension from 25th June 1953 to 21st July 1953 and hence he filed the present complaint as the suspension order was passed without the express permission of this Tribunal as required by Section 33 of Industrial Disputes Act. He prayed that opposite party should be directed to pay his wages for the period from 25th June 1953 to 21st July 1953.

3. The opposite party denied that it had contravened the provisions of Section 33 or it suspended the complainant from 25th June 1953 to 21st July 1953. It also alleged *inter alia* that the complainant was working as a carpenter on piece-rated basis under one Baijnath, who was given the contract of repairing mine cars; this contract work which was given to Baijnath was over and he requested the management not to throw him and his workmen out of employment and to give him some other work. Thereupon the management temporarily entrusted him with coal tub manufacturing job. On 2nd July 1953 Baijnath reported to the management that the workmen refused the coal tub manufacturing work and practically went on strike. From 2nd July 1953 he and his co-workers refused to do the work of coal tub manufacturing. Ultimately on 15th July 1953 the other co-workers of the complainant accepted the coal tub manufacturing work; but the complainant did not do so. Ultimately the opposite party out of sympathy temporarily absorbed the complainant as a daily-rated carpenter in the Central Workshop and he joined his duties on and from 22nd July 1953. The opposite party therefore urged that the complainant was not entitled to any wages as claimed for by him.

4. At the hearing before me, the parties filed a statement saying that they had come to an agreement under which the opposite party agreed to pay to the complainant his wages at his present daily rate of wages for the period from 15th July 1953 to 21st July 1953 excluding any Sundays that might have intervened during this period. The complainant had already been paid upto 1st July 1953 and his unemployment from 2nd July 1953 to 14th July 1953 was not due to any fault of the management. In the circumstances, the compromise under which the management are to pay him his wages from 15th to 21st is reasonable. It is an admitted fact that the complainant has been working with the management from 22nd July 1953 and is being paid wages as from that date.

5. In the result, it is ordered that the opposite party should pay to the complainant his wages at his present daily rate of wages for the period from 15th July 1953 to 21st July 1953 (both days inclusive), excluding any Sundays that might have intervened during this period. This period shall be treated as if the complainant was on duty for all purposes.

I pass my award accordingly.

The 6th February 1954.

(Sd.) L. P. DAVE, Chairman,

Central Government's Industrial Tribunal, Dhanbad.

[No. LR.2(365).]

S.R.O. 752.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Central Kirkend and West Gopalichuck collieries, Kusunda, and their workmen.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD

REFERENCE No. 1 OF 1954

PRESENT:

Shri L. P. Dave, B.A., LL.B.,—*Chairman.*

PARTIES:

Employers in relation to the Central Kirkend and West Gopalichuck Collieries, Kusunda.

AND

Their workmen.

APPEARANCES:

Shri Kanti Mehta, General Secretary, Bihar Colliery Mazdoor Sangh.—*For the workmen.*

Shri B. Mukherji, Manager, Central Kirkend & West Gopalichuck Collieries, Kunsuda.—*For the employers.*

AWARD

By Government of India, Ministry of Labour, Order No. L.R.2(426), dated 26th December 1953, an industrial dispute between the employers in relation to, the Central Kirkend and West Gopalichuck collieries, Kusunda, and their workmen, in respect of the matters specified in the schedule annexed to the order and reproduced below, were referred to this Tribunal for adjudication. The points referred for adjudication are:

1. Reinstatement of (1) Shri S. K. Choubey, (2) Shri H. D. Singh, (3) Shri Prabhu Dusad.
2. Free rice, attendance bonus, and rations at concession rates to loading sirdars.
3. Attendance bonus and free rice to the monthly paid staff on the basis of 30 days.

2. Usual notices were issued to the parties about this reference. The General Secretary, Bihar Colliery Mazdoor Sangh, appeared on behalf of the workmen and took two adjournments for filing a written statement on behalf of the workmen. In the meanwhile the parties entered into a compromise and hence a petition of compromise was presented before me.

3. I have gone through the compromise and find it to be reasonable. The Union was claiming the reinstatement of three persons of whom two are to be reinstated, while the union gives up the claim of reinstatement of the third. The demand of free rice, attendance bonus, and rations at concessional rates to loading sirdars is given up by the Union. The demand for attendance bonus and free rice to the monthly paid staff on the basis of 30 days is accepted by the management. I think that the compromise is in the interests of both the management and the workmen. I accept it.

4. I therefore direct that an award should be passed in terms of the compromise, copy of which is attached herewith.

The 8th February 1954.

(Sd.) L. P. DAVE, *Chairman,*

Central Government's Industrial Tribunal, Dhanbad.

BEFORE THE CHAIRMAN, CENTRAL GOVERNMENT'S INDUSTRIAL
TRIBUNAL, DHANBAD

In the matter of Reference No. 1 of 1954

PARTIES:

The Management of Central Kurkend and West Gopalichuck Collieries, Kusunda.—*1st Party.*

Vs.

Their Workmen represented by the Bihar Colliery Mazdoor Sangh.—*2nd Party.*

AND

In the matter of compromise of the above Reference,

The humble petition on behalf of the parties abovenamed.

Most respectfully Sheweth:—

That the above Reference has been compromised and the disputes settled between the parties on the following terms and conditions:—

*Item No. 1.—*1. That the Management (1st party) has agreed to re-instate Shri S. K. Chowbey and Sri H. D. Singh from the date of signing of this compromise petition. The re-instatement is to take the shape of continuous service and the period from 11th August 1950, the date of dismissal will be treated as absence on leave without pay.

2. That the 2nd party gives up the claim for the re-instatement of Prabhu Dosad and does not press for the same.

Item No. 2.—3. That the 2nd party gives up the claim of Item No. 2 of the Reference and does not press for the same.

Item No. 3.—4. That from the date of the signing of this compromise petition the Management (1st party) will restore the previous facility of the issue of free rice and grant of monetary allowance on the basis of 30 (Thirty) days to those members of the monthly paid staff previously in receipt of these facilities. This however will not apply to other members of the existing monthly paid staff or to other monthly paid staff who would be appointed hereafter who were not in receipt of these facilities previously.

It is therefore prayed that an Award may kindly be made on the terms of the above compromise.

The 8th February 1954.

(Sd.) KANTI MEHTA, General Secretary,
Bihar Colliery Mazdoor Sangh.

(Sd.) B. MUKHERJEE, Manager,
For and on behalf of the Management of Central Kurkend and
West Gopalichuck Collieries.

Filed.

The 8th February 1954.

(Sd.) L. P. DAVE, Chairman,
Central Government's Industrial Tribunal, Dhanbad.
[No. LR.2(426).]

New Delhi, the 23rd February 1954

S.R.O. 753.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of applications under section 33A of the said Act from Shri Mukund Singh and two others, workmen of Loyabad Colliery, and Shri Jogeswar Singh, a workman of the Loyabad Central Workshop.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD

APPLICATION No. 205 of 1953 AND APPLICATION No. 456 of 1953

(Arising out of Reference No. 6 of 1952)

In the matter of an application U/S 33A of Industrial Disputes Act 1947

PRESENT:

Shri L. P. Dave, B.A., LL.D.,—(Chairman,

PARTIES

APPLICATION No. 205 of 1953

1. Mukund Singh, Trammer, Pit No. 10.
2. Kasho Dusadh, Trammer, Pit No. 10.
3. Abdul Sattar, Pump Khalasi, No. 10 pit—Workmen of Loyabad Colliery.
—Complainant.

Vs.

M/S. Burrakur Coal Co. Ltd., Loyabad Colliery, P.O. Bansjora, District Manbhum, Bihar.—*Opposite party.*

APPLICATION No. 456 of 1953

Shri Jogeswar Singh, Carpenter, Loyabad Central Workshop, Loyabad, P.O. Bansjora, Distt. Manbhum.—*Complainant.*

Vs.

M/S. Burrakur Coal Co. Ltd., Loyabad Central Workshop, Loyabad, P.O. Bansjora, Distt. Manbhum.—*Opposite party*

APPEARANCES:

Shri Lalit Burman, General Secretary, Loyabad Labour Union, Loyabad, P.O. Bansjora, Distt. Manbhum.—*For complainants in both cases.*

Shri D. N. Gupta, Chief Personnel Officer, M/S. Burrakur Coal Co. Ltd., Managing Agents, M/S. Bird & Co. Ltd., P.O. Sijua, Distt. Manbhum, Bihar.—*For opposite party in both cases.*

AWARD

These are complaints under Section 33A of the Industrial disputes Act.

2. The complainants in Application No. 205 of 1953 were dismissed on 30th January 1953 and the complainant in Application No. 456 of 1953 was dismissed on 23rd February 1953. Reference No. 6 of 1952 between the opposite party and their workmen was pending before this Tribunal and yet no permission was obtained from this Tribunal before dismissing any of these complainants, as required by Section 33 of the Industrial Disputes Act. The complainants have therefore filed the present complaints under Section 33A of the Act.

3. All the complainants were charged with disorderly behaviour near the colliery office on the evening of 27th January 1953. They denied the alleged disorderly behaviour, urging that several workmen had gone to the manager's office to represent their grievances, and the complainants were present there in their capacity as office bearers of the Workers' Union. The management however held the charges against the complainants proved, and dismissed them.

4. Mukund Singh, complainant No. 1 in Application No. 205 of 1953, has been examined at Exhibit 10 in that case. He has stated that on 27th January 1953 the management discharged 54 workmen and thereupon those workmen went to him and told him that they had been discharged without notice. He took these workmen to Mr. Burman, who was the Secretary of the Loyabad Labour Union (which union however does not appear to have been recognised by the management). Mr. Burman wrote a letter and gave it to Mukund Singh and asked him to take the said letter and the discharged workmen to the Manager. Accordingly Mukund Singh went to the Manager's office with the workmen. On the way, about 15 or 20 other workmen joined them. On going to the Manager's office, Mukund Singh told the peon who was sitting there that they wanted to give a note to the manager. The peon said that he would obtain the permission of the manager and asked the workmen to wait. Thereupon the workmen sat there. After 15 minutes, a Sub-Inspector of Police came there with 25 constables. All the workmen were sitting quietly without raising any shouts of any kind. The Sub-Inspector of Police asked them why they had gone there and they told him that 54 workmen had been discharged and that they wanted to give a note about it to the Manager. The Sub-Inspector of Police asked the workmen to wait and went inside the Manager's office. After some time, he came out and asked them whether all of them wanted to talk to the Manager or whether they would select 3 or 4 persons who would speak on their behalf. Accordingly, the workmen gave the names of Mukund Singh, Kesho Dasgill, and Abdul Sattar (i.e. the three complainants in complaint No. 205 of 53) as the persons who would speak on behalf of the workmen. These three persons were taken inside the Manager's office and gave the note which Mr. Burman had written to the Manager. They also had a talk with the Manager regarding the 54 discharged workmen. After this, the Sub-Inspector of Police escorted the Manager in his car to the bungalow. The workmen asked the Sub-Inspector of Police as to what he had done about their grievances and he said that he would return after some time. On return, he asked the workmen to disperse, and also told them that the workmen should take individual letters to the Manager and thereupon they would be given work. On this, the workmen dispersed. On the next day (i.e. on 28th January 1953), a charge sheet was served on the three complainants of Application No. 205 of 1953 who were also suspended. They gave a reply on 29th January 1953. On 30th January 1953, they were dismissed. This, in short, is the evidence of Mukund Singh.

5. So far as the complainant of Application No. 456 of 1953 (Jogeswar Singh) is concerned, he, in his deposition, has stated that on 29th January 1953, he was on duty upto 5-30 P.M. He then went to his room, took his breakfast and then went to the labour union office. (He was the Vice-President of the Loyabad Labour Union). He was told by Mr. Burman that some workmen had gone to the colliery office and he should also go there and so he went there and found that some police officers were already there and the labourers were sitting quietly in the verandha. The Sub-Inspector of Police took the Manager with him and escorted him to the bungalow. On 28th January 1953, he was served with a charge sheet and was also suspended. He gave a reply to it on the very day. After two or three days, the Manager told him not to go to the workshop. He made applications to the Manager. Ultimately on 23rd February 1953, he received a letter saying that he had been dismissed. This, in brief, is the evidence of Jogeswar Singh.

6. On the other hand, we have the evidence of the Manager Mr. Hare that at about 5-30 P.M. on 27th January 1953 a group of people collected in front of and about his office and that the whole group must be consisting of 100 to 200 persons. They were shouting slogans. He recognised Mukund Singh and the other two complainants of Application No. 205 of 1953 as being some of the leaders of the crowd. Mukund Singh had a megaphone and was shouting slogans

through it and the crowd was responding by shouting slogans. A slip was brought in by his peon stating that some persons of a Union wanted to see him; but as it was a union which was not recognised by the management, he refused to see them. The policy of the management was that if any workman wanted personally to see the manager, he would see him. So also if he came with the representative of a recognised union, then also he would see him. But he would not see persons coming from an unrecognised union nor would he see a workman, if he came on behalf of other workmen. The crowd went on shouting incessantly. After some time, the Assistant Manager Mr. Chatterji came to Manager's office to warn him (the manager Mr. Hare) that the crowd would not allow him (Mr. Hare) to leave his office unless certain demands were met by him. Mr. Chatterji also told him that the crowd would assault him, if he attempted to leave the office. Mr. Hare then wanted to contact the police for help; but as there was no telephone at the police station at that time, he rang up his Head Office at Sijua, which is near the police station and informed the Deputy Chief Mining Engineer of the situation at the colliery, and requested him to give information about it to the police station. Soon after this, the Sub Inspector of Jogta Police Station came there with some unarmed police constables and shortly after this, another Sub Inspector of Police came there with some armed constables. On arrival of the police, the crowd became quiet, but did not leave. Mr. Hare explained the situation to the Sub Inspectors and at their instance, he agreed to see one person out of the crowd. They went out and returned with Kesho Dusadh to whom the policy of the management regarding giving of interviews to workmen having a grievance or to a representative of the recognised union was explained. He then went out and brought Mukund Singh and Abdul Sattar. These persons had no grievance of their own and so Mr. Hare refused to talk with them regarding the grievance of other workmen. After this, the Sub Inspectors of Police escorted Mr. Hare to his Bungalow because they were apprehensive of his safety. After going to the bungalow, Mr. Hare wrote a letter addressed to the police officer Jogta Police station and handed it over to him. A carbon copy of this letter has been produced in this case. It is Exhibit 12. Charge sheets were then served on the next day on the three complainants in Application No. 205 of 53, who gave their replies. Mr. Hare was not satisfied about their explanations and so he passed orders dismissing them. This is in brief the evidence of Mr. Hare.

7. The management have also examined Mr. Chatterji, Assistant Manager of the colliery and he has said that at 5.30 p.m. on 27th January 1953, he heard shouting of slogans near the Manager's office and on coming out, he saw a crowd of about 200 persons moving towards the office. He saw Mukund Singh in the fore-front of the crowd just behind him were Kesho Dusadh and Abdul Sattar. Mukund Singh had a megaphone in his hand. The crowd collected near the Manager's office and continued shouting slogans. Mr. Chatterji went back to his office. After some time he again came out and at that time he heard persons in the crowd talking that they would not go and also would not allow the Manager to leave his office unless their demands were accepted. He also heard them speaking that if the Manager tried to leave his office, he would be assaulted. From the attitude of the crowd, Mr. Chatterji apprehended trouble and felt it his duty to warn the Manager about it. He accordingly went to the Manager and told him what he had heard. Mr. Chatterji has also said that the three complainants in Application No. 205 of 53 were among the persons who were speaking as above. In brief, this is the evidence of Mr. Chatterji.

8. As I said above, the charges against all the complainants were of disorderly behaviour near the colliery office on the evening of 27th January 1953. The management held these charges proved and dismissed the workmen. In cases of this type, the Tribunal is not sitting in appeal against the decision of the management and would not interfere with the findings of the management if the management had evidence before it from which it could hold the charges proved. Of course, there should also be bonafides on the part of the management.

9. It is an admitted fact that a large number of persons had collected near the Manager's office on the evening of 27th January 1953. The workmen's case is that the crowd was a peaceful crowd and that they had gone there to represent the grievances of 54 workmen who had been discharged by the management. It is said that they asked the peon to inform the manager that they wanted to give him a note which they had with them and the peon said that he would obtain the manager's permission and so the workmen sat quietly in the verandah of the Manager's office. On the other hand, the management's case is that the crowd was not peaceful, that it was shouting slogans and also that they threatened that the Manager would not be allowed to go home unless their grievances were redressed and if he tried to go, he would be assaulted. In my opinion, the allegations of the management appear to be correct.

10. As I said above, it is an admitted fact that a large number of persons had gone to the Manager's office. Even according to the evidence of the complainant Mukund Singh, the total number of persons was about 75. Not only had the 54 workmen who had been discharged gone there, but about 15 to 20 other workmen had joined them on the way. There was no reason for these other persons to have gone to the Manager's office with the discharged workmen. It is then said that all these people were sitting quietly near the Manager's office. This is unnatural and improbable and cannot be believed. When illiterate workmen assembled together in a large number because they thought that they had a grievance, and when they were going in a body to the Manager for having it redressed, it is not likely that they would be going quietly. Further according to their case, they had sought for an interview from the Manager, and it was not given to them for a long time. They must have felt that the Manager was refusing to see them; and then at least they would not have remained quiet but would certainly have started raising shouts.

11. It may be noted that Mr. Burman, Secretary of the Union, did not himself go with the discharged workmen but sent Mukund Singh with them. Later on, when Jogeswar Singh went to the Union office, he was sent to the colliery office. This shows that Mr. Burman must have apprehended trouble and that is why he did not himself go with the workmen but sent others with the workmen, and later on, sent another person, probably to inquire how things were going on.

12. We have then the evidence of the Manager Mr. Hare and the Assistant Manager Mr. Chatterji. Both of them have said that the crowd consisted of more than 100 persons and that they were shouting slogans. They have also said that complainant Mukund Singh had a megaphone with him and was shouting slogans through it and the crowd was responding by shouting slogans. Mr. Chatterji has also said that he heard the persons in the crowd talking that they would not allow the Manager to leave the office unless their demands were accepted and further that if he tried to leave office, he would be assaulted. He has also said that from the attitude of the crowd, he apprehended trouble and felt his duty to warn the Manager. Accordingly he went to the Manager and told him what he had heard and the Manager thereupon contacted his head office in Sijua and asked the Deputy Chief Mining Engineer to give information to the police station and obtain police help. I believe the evidence of Mr. Hare and Mr. Chatterji.

13. Their evidence is corroborated by the fact that the police arrived there within a short time. If the crowd was peaceful and was not even raising shouts, but was sitting quietly, there was no reason why the Manager should have contacted the police and asked for their help. We have then the fact that the Manager had to be escorted home by the police officers, as admitted both by Mukund Singh and Jogeswar Singh. This fact would also show that the crowd was hostile and that it was not felt safe for the Manager to go home alone.

14. The evidence of the Manager is also corroborated by the letter he wrote out immediately on going home and handed over to the police officer. Exhibit 12 is the carbon copy thereof. In that letter, it has been stated that about 200 men had gathered in front of the Manager's office shouting slogans and that the Manager learnt from his Assistant Manager Mr. Chatterji that they would not allow him (Mr. Hare) to leave the office. This letter further says that the police arrived there promptly on getting information at 6 p.m. Thus this letter corroborates the allegation of the Manager Mr. Hare and the Assistant Manager Mr. Chatterji that the crowd was a large crowd of more than 100 persons; that they were shouting slogans and that they threatened that they would not allow the Manager to go home unless their demands were met. I am thus satisfied that the crowd was unruly and that it was not only shouting slogans but was guilty of giving threats to the Manager. Looking to their large number and their hostile attitude and the talk they were having among themselves, the manager had reasonable apprehension that they would assault him if he tried to go home. If a workman was a member of such an unlawful assembly or at least remained a member thereof after the assembly became unruly and unlawful, he would certainly be guilty of unruly behaviour and the management would be justified in dismissing him.

15. The next question is whether the complainants, or any of them, were members of the above crowd and took part in unruly behaviour. So far as the three complainants of Application No. 205 of 53 are concerned, we have the evidence of Mr. Hare that he had seen and recognised all of them as being leaders of the crowd. Mukund Singh had a megaphone with him and was shouting through it. This clearly shows that he was taking a leading part in the crowd. According to his own evidence, it was he who had taken the workmen to Mr. Burman

and it was he who took the workmen to the Manager's office. Mukund Singh was thus taking a leading part in the crowd. Similarly Mr. Chatterji has also said that Mukund Singh was in the fore-front of the crowd and Kesho Dusadh and Abdul Sattar (the other two complainants) were just behind him. He has also said that these three complainants were among the persons who were talking that they would not leave unless their demands were fulfilled. All this evidence clearly proves that the complainants were the leaders of the crowd.

16. I may mention here that the presence of these three complainants in the crowd was admitted by them in their replies to the charge sheets. In these replies, they further said that they were present at the colliery office as office bearers of the Loyabad Labour Union to maintain peace and order and that it was a credit that they were successful in maintaining order and peace. This shows that they admitted that they were leaders of the crowd. Of course they also said that they were able to persuade the crowd to maintain peace and order; as I held above, however, I do not believe that the crowd was peaceful. But the fact remains that in their replies to the charge sheets these three complainants admitted not only that they were present but also that they were leaders of the crowd.

17. So far as these three complainants are concerned, the Manager had himself seen them as the leaders of the crowd. One of them was using a megaphone and was thus instigating the crowd. It did not require any other evidence for the manager to be satisfied about the charges against them. They admitted their presence and they also admitted their being leaders of the crowd. I may repeat that the Manager has stated that he had recognised all the three of them as being leaders of the crowd. Actually these three persons were later on selected by the crowd to be their spokesmen, showing that they were leaders of the crowd. I have no hesitation in holding that these three persons were not only members and leaders of the crowd but they instigated the crowd to misbehave and to be unruly. At any rate, the Manager had himself seen that these persons were guilty of misconduct and he was justified in holding that the charges against them proved.

18. It has been alleged in the replies to the charge-sheets by these three complainants that they were office bearers of the Loyabad Labour Union. There is no evidence to substantiate this allegation. Only Mukund Singh has gone in the witness box and he has not said that he was an office bearer of the Union. All that he has said is that he was held in high esteem by the workmen of the colliery and hence when some workmen were discharged, they came to him and he took them to Mr. Burman, the Secretary of the Loyabad Labour Union. Thus the allegation that action was taken against these three persons because of their being office bearers of the Union is not proved. I am satisfied that the action of the management against these three persons was *bona fide* because the management was satisfied that these three workmen had taken a leading part in inciting the crowd to unruly behaviour and they were themselves guilty of unruly behaviour. Their dismissal is therefore justified.

19. Coming to the case of Jogeswar Singh, who is the complainant in Application No. 456 of 53, it stands on a different footing. He was not there from the beginning, but went there after the police had already arrived. He has said that he was on duty upto 5-30 p.m. after which he went home, took breakfast and then went to the office of the Loyabad Labour Union of which he was the Vice-President. He was then sent to the colliery office by Mr. Burman and thereupon he went there. On reaching there, he found that some police officers were already there.

20. There is no evidence to show that Jogeswar Singh had been there from the beginning or that he was the leader of the crowd or incited them to unruly behaviour. I may also point out that after the arrival of the police, the crowd was asked to select three persons to go and see the Manager on behalf of the workmen. Jogeswar Singh was not one of these three persons selected by the crowd. If he was really there at that time, I think he would have been one of the persons selected to represent the workmen, because he was the Vice-President of the Loyabad Labour Union. This also would go to show that he must not have been present with the crowd selected three persons to see the Manager, and that he must have arrived there thereafter. Three persons were selected by the crowd after the arrival of the police and this would clearly establish that Jogeswar Singh arrived there long after the arrival of the police.

21. It has been admitted by Mr. Hare that the crowd became quiet on arrival of the police. In other words, the crowd must have been quiet and not unruly, when Jogeswar arrived there. Hence, it could not be said that he was guilty of unruly behaviour.

22. It may be noted that Jogeswar Singh was working not in the colliery itself but in the workshop, as he is a carpenter. The charge sheet on him was served by the workshop Manager on 28th January 1953. He gave a reply to it on the very day. No enquiry appears to have been held by the workshop Manager. He however made an endorsement on 29th January 1953 on the charge sheet that the assembly was not peaceful and the police had to be called for and that he recommended dismissal. The workshop Manager was not present at the colliery office at the time of the incident on 27th January 1953. He could have no personal knowledge whether the crowd was peaceful nor could he have personal knowledge about Jogeswar Singh being a member of the crowd or about his being a leader thereof. In the case of the other three complainants, the Manager had issued charge sheets and the Manager himself passed orders of dismissal. The Manager was present when the incident took place and hence no formal enquiry was necessary. But in the case of Jogeswar Singh, the officer who issued the charge sheet and who recommended dismissal, could not have held the charge proved unless he had held an enquiry. He had no evidence before him from which he could come to the conclusion that Jogeswar Singh was guilty of misconduct.

23. It was said that Mr. Hare has stated in his evidence before this Tribunal that he had recognised Jogeswar Singh in the crowd. The evidence is not very clear to identify Jogeswar Singh recognised by Mr. Hare as being the complainant in application No. 456 of 53. Mr. Hare has said that he recognised some persons in the crowd and that one of them was Jogeswar Singh and that he was not a workman of the colliery. It was argued that this meant that he was not working in the colliery but was working in the workshop. The evidence however cannot be said to be quite clear to prove the identity of Jogeswar Singh. Then the evidence only means that Mr. Hare had seen Jogeswar Singh in the crowd. It however does not show when he had seen him. Jogeswar Singh has said that he came there after the arrival of the police. If that was so, it would mean that he came there after the crowd had ceased to be unruly. Mr. Hare has not alleged that Jogeswar Singh was one of the leaders of the crowd. It may be noted that the above statements of Mr. Hare made before the Tribunal were not before the management, when they passed the order of dismissal.

24. I might repeat that no enquiry appears to have been held against him before holding his misconduct proved. There was thus no evidence before the management from which they could hold the charge proved. Their finding against him would therefore be perverse. In my opinion action must have been taken against him, probably because he was Vice-President of the Labour Union. His dismissal is not proper and he should therefore must be ordered to be reinstated. Regarding arrears of wages, he kept quiet and did not come to the Tribunal till 3rd December 1953 though the other complainants had filed application No. 205 of 53 as early as July 1953. It is true that there is no period of limitation for filing a complaint of this sort; but the aggrieved workmen should be vigilant. It would also not be proper or fair to the management to make them pay the arrears of wages for the whole period of idleness, if the complainant sat quiet for a long time after his dismissal. In my opinion, the proper order would be that the complainant should be paid his arrears of wages from the date of his complaint; but the period of unemployment prior to that should be treated as if he was on leave without pay and this period should not be treated as a break in his service.

25. The result is that the three complainants is Application No. 205 of 53 cannot be reinstated nor can any relief be given to them. Their complaint is dismissed. Jogeswar Singh the complainant in Application No. 456 of 53 should be reinstated if he offers himself for employment within 10 days of the award becoming enforceable. He should also be paid wages including dearness allowance etc. from 3rd December 1953 and should also be given all advantages as if he was on duty from this date. The period of unemployment upto that date should be treated as period of leave without pay and should not count as break in service. I pass my award accordingly.

The 8th February, 1954.

(Sd.) L. P. DAVE, *Chairman,*
Central Government's Industrial Tribunal,
Dhanbad.

[No. LR.2(365)/I.]

S.R.O. 754.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of an application under section 33A of the said Act from Shri Karan Bahadur Gurung, a workman of the Jamadoba Colliery.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD

APPLICATION No. 240 OF 1953

(Arising out of Reference No. 6 of 1952)

In the matter of an application U/S 33A of Industrial Disputes Act 1947

PRESENT:

Shri L. P. Dave, B.A., LL.B.—*Chairman.*

PARTIES:

Karan Bahadur Gurung, Watchman, Watch & Ward Department, The Tata Iron and Steel Co. Ltd., Jealgora P.O., Manbhum District.—*Complainant.*

Vs.

M/s. Tata Iron and Steel Co. Ltd., Jamadoba, P.O. Jealgora, District Manbhum.—*Opposite party.*

APPEARANCES:

Shri M. V. Desai, General Secretary, Koyala Mazdoor Panchayat, P.O. Jharria, Dist. Manbhum.—*For the Complainant.*

Shri D. Narsingh, Chief Personnel Officer, M/s. Tata Iron & Steel Co. Ltd., Jamadoba, P.O. Jealgora, Dist. Manbhum.—*For the Opposite Party.*

AWARD

This is a complaint under section 33A of Industrial Disputes Act.

2. The complainant alleges as under:—

An industrial dispute between the employers and workmen in coal industry was pending before this Tribunal; the present opposite party was a party to that dispute; during the pendency of the above reference, the opposite party discharged the complainant who had been in service for about a year and was not on probation as stated by the opposite party in the notice of discharge issued by it. This notice was given because the complainant asked for quarterly bonus which had been withheld from him illegally. Notice of discharge is therefore illegal. The complainant therefore prayed for his reinstatement.

3. The opposite party replied as under:—

The complaint is not legally maintainable. The complainant was at first appointed as a temporary watchman on daily wages from 1st January, 1953 and was put on a monthly basis in the permanent chain on and from 3rd February, 1953. During the period of his probation, the complainant was found asleep on duty on 16th April, 1953. A charge sheet was served on him on 20th April, 1953 to which he gave a reply. As the complainant's work was found unsatisfactory during his probationary period, he was discharged from service from 23rd July, 1953. The opposite party therefore prayed that the complaint should be dismissed.

4. It is an admitted fact that the complainant was working as a watchman with the opposite party. He was appointed by a letter, dated 5th February, 1953, copy of which has been produced as Annexure 'A' to the written statement of the opposite party. That letter mentions that the complainant was appointed as a watchman and that he was to be on probation for three months in the first instance and thereafter he would be confirmed in the post if his services were approved. The letter then mentions that he would not be entitled to any notice pay if his services were terminated during the probationary period; but that on confirmation, he would be entitled to a month's notice or pay in lieu of notice if his services were terminated, provided they were not due to misconduct, insubordination or negligence of duty.

5. It appears that on 16th April, 1953 the complainant was found asleep while on duty. He was served with a charge sheet about it on 20th April, 1953. He replied to it on 22nd April, 1953, stating that while on duty on 16th April, 1953 he was attacked with headache and was compelled to lie down for taking rest.

He further said that he did not do so wilfully and promised that in future he would never commit such a mistake. Lastly he requested that he should be excused as this was his first offence. Copies of the charge sheet and the complainant's reply thereto have been produced as Annexure 'B' to the written statement of the opposite party.

6. On 21st July, 1953, the opposite party wrote a letter to the complainant informing him that his work had been found not satisfactory during his probationary period and he was therefore discharged from the company's service with effect from 23rd July, 1953. Copy of this letter has been produced by the complainant as annexure to the complaint.

7. On 5th August, 1953 the complainant filed the present complaint contending that the opposite party had committed breach of Section 33 of the Industrial Disputes Act by terminating his services without the express permission of the Tribunal, though Reference No. 6 of 1952 was then pending before this Tribunal. The opposite party contends that the complainant was appointed on probation in the first instance and it was one of the conditions of his appointment, that if his services were terminated during the probationary period, he would not be entitled to any notice or notice pay. It is contended that the complainant's work was found unsatisfactory during the period of his probation and that is why his services were terminated and this was in accordance with the terms of his appointment and hence the opposite party could not be said to have committed a breach of Section 33 of the Industrial Disputes Act. As against this, it was argued on behalf of the complainant that one of the terms of the appointment of complainant was that he was on probation for three months; and as he was appointed on 5th February, 1953, it would mean that his period of probation ended on 5th May, 1953 and from that date, he should be deemed to have been confirmed. He was discharged in July and hence it could not be said that he was discharged during the probationary period.

8. I need not consider or decide in this case the question as to whether the permission of the Tribunal would be necessary for discharging a person during the period of his probation. The important question for consideration in this case is whether on the date of the termination of the complainant's service, he was on probation or not. If he was on probation, then the opposite party was entitled to discharge him without giving him any notice or pay in lieu of notice and the discharge would be proper; and the complainant would not be entitled to be reinstated, even if technically there had been a breach of Section 33 by discharging him without the Tribunal's permission. If on the other hand, the complainant were deemed to have been confirmed in May, it would mean that he was not on probation in July and the termination of his services without notice and without service of charge sheet etc. would not be proper. In such a case (that is if the complainant is deemed to have been confirmed), the opposite party would certainly be guilty of a breach of Section 33 of the Industrial Disputes Act; but if, as I said above the complainant was still on probation at the time of the termination of his services, this complaint cannot be granted even if permission of the Tribunal under Section 33 of the Industrial Disputes Act was necessary to discharge the workman during the period of his probation.

9. Thus the important question for consideration is whether the complainant was on probation at the time of the termination of his services. In this connection, Mr. Desai on behalf of the complainant relied on the letter of appointment dated 5th February, 1953, which mentions that the complainant was appointed on probation for three months in the first instance. It was argued from this that the complainant must be deemed to have been confirmed on 5th May, 1953 when he completed three months' service. In other words, his contention was that on the expiry of the period of probation, the confirmation would be automatic. I do not agree with this contention. In this connection, I may refer to the case of Buland Sugar Company Limited and Shri M. M. Dargan reported at 1952, Vol. I, L.L.J., p. 504. In that case, the period of probation of the workman appeared to have expired some time between 11th April, 1950 and 21st April, 1950. He was allowed to continue in service till 30th April, 1950. A letter dated 11th April, 1950 was addressed to him and it was urged that this letter was anti-dated and was as a matter of fact received by the workman on 21st, when the period of probation had already expired and that he should be deemed to have been made permanent on the expiry of the period of probation. The Labour Appellate Tribunal observed that though he was allowed to continue in service till 30th April, that did not mean that he had become automatically permanent, because no order of confirmation was made. It further observed that

it was not necessary for an employer to indicate during the period of his probation that his services were not satisfactory, and that it is the right of the employer after the termination of his probationary period, to discharge the probationer, if in its opinion the services were not considered satisfactory. In the present case, no doubt the period of three months from the date of appointment would expire on 5th May, 1953; but this would not mean that the complainant must be deemed to have been automatically confirmed on that date. The letter of appointment mentions that the complainant was to be on probation for three months in the first instance and thereafter would be confirmed in the post if his services were approved. I would lay stress on the words "In the first instance" and "thereafter would be confirmed". The period of probation of three months may be extended in suitable cases. On the completion of probation, the employer would have to pass an order of confirmation, if it approved of the services of the complainant. Unless there was an order of confirmation, it could not be said that the complainant was confirmed. As I mentioned above, the letter mentions that after the period of confirmation, the complainant would be confirmed if his services were approved, meaning thereby that an order of confirmation would be necessary.

10. It is true that no order either of confirmation or discharge of the complainant was passed immediately on the completion of three months' period. It is however not in dispute that some time before this period of three months was over, the complainant had been found asleep while on duty on 16th April, 1953 and for this a charge sheet had been served on him on 20th April, 1953. In his reply dated 22nd April, 1953, the complainant admitted that he was lying down for rest while on duty. Of course he gave an explanation that he was attacked with headache. He also gave an assurance that he would not commit such mistakes in future. Even if the complainant had been confirmed as a watchman, the opposite party would have been entitled to take a serious view of the case and to dismiss him; because sleeping while on duty for a watchman is a serious matter. (See the case of Ford Motors 1952, I. L.L.J. 388). In the present case, however, the complainant was on probation at that time and no orders appear to have been passed on the charge sheet. Later on, however, he was discharged from service on the ground that his work was found unsatisfactory during his probationary period. It is true that some delay did occur between the completion of the period of three months and this letter of discharge; but I do not think that the delay was long. As I mentioned above, three months' period from the date of appointment ended on 5th May, 1953. The order of discharge is passed on 21st July, 1953, that is, about 2½ months thereafter. This is not such a long period as to lead us to an inference that the complainant must be deemed to have been confirmed. As I said above, an order of confirmation would be necessary before it could be said that a particular person was confirmed. But the fact that no order was passed would not mean that there was an automatic confirmation. After the period of probation is over, the employer would have to consider whether the workman's work is satisfactory and whether he deserves confirmation. If the employer takes a long time to take a decision, the workman can make a grievance of it. But the period of 2½ months which the opposite party took in this case could not be taken to be a long period. In my opinion, the complainant was still on probation at the time when the order of discharge was passed.

11. Mr. Desai on behalf of the workmen argued that under the standing orders a workman could not be kept on probation for a period exceeding three months. I do not think that this would mean that on the completion of three months, confirmation would be automatic. It would only mean that a person could claim confirmation on completion of three months service and the employer could not keep the workman on probation for an indefinite period, but must consider the workman's case as soon as he completed the probationary period of three months and pass an order whether he should be confirmed or not. It would not however mean that immediately on the completion of three months' service every workman would be deemed to have been automatically confirmed.

12. In this connection, Mr. Narsingh on behalf of the opposite party also contended that the present standing orders mentioning that the period of probation would be three months were not in force at the time when the complainant was discharged. It is an admitted fact that the original standing orders of the opposite party laid down the period of probation to be six months. It appears that new standing orders which provided *inter alia* that the period of probation should be three months were certified by the Certifying Officer on 30th July, 1952. The management went in appeal against the order of the Certifying Officer.

The Appellate Authority confirmed the standing orders as certified by the Certifying Officer on 24th August, 1953. In other words, at the time when the present complainant was discharged in July, 1953, the Appellate Authority had not passed any orders. Under Section 7 of the Industrial Employment (Standing Orders) Act, 1946, Standing Orders shall, unless an appeal is preferred under Section 6, come into operation on the expiry of 30 days from the date on which authenticated copies are sent thereof under Section 5(3) or when an appeal is preferred, on the expiry of seven days from the date on which copies of the orders of the Appellate Authority are sent under Section 6(2). The first part of this Section would not apply in cases where an appeal is preferred. In such a case, the second part of the Section would apply. That would mean that though in the present case, the standing orders had been certified by the certifying officer on 30th July, 1952, they did not come into operation from 30th August, 1952, as an appeal had been preferred. Because of the appeal, the Standing Orders would come into operation on the expiry of seven days from the date on which copies of the order of the Appellate Authority were sent. As I said above, the Appellate Authority passed an order on 24th August, 1953 and hence the standing orders could not come into operation at least before 30th August, 1953. In other words, the new standing orders were not in force at the time when the complainant was discharged. Under the standing orders which were then in force, a workman would be on probation for a period of six months.

13. On the whole, I hold that the complainant was still on probation at the time when he was discharged. Under the terms of his appointment, the opposite party was entitled to discharge him, if it did not find his work satisfactory during his probation. Admittedly the complainant was found asleep while on duty during the period of probation and it could not therefore be said that the opposite party was wrong in holding that his services were not satisfactory and in discharging him. That being so, the complainant cannot be reinstated. The complaint fails, and is dismissed.

I pass my award accordingly.

The 9th February, 1954.

(Sd.) L. P. DAVE, *Chairman.*

Central Government's Industrial Tribunal, Dhanbad

[No. LR.2(365)/II.]

S.R.O. 755.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of an application under section 33A of the said Act from Shri Subodh Mukerjee and two others, workmen of Tata's 6 and 7 Pits Colliery.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD

APPLICATION No. 375 OF 1953

(Arising out of Reference No. 6 of 1952)

in the matter of an application U/S 33A of Industrial Disputes Act 1947

PRESENT:

Shri L. P. Dave, B.A., LL.B.—*Chairman.*

PARTIES:

1. Subodh Mukherjee,
2. Shyam Kumar Misir,
3. Dwijapada Dutta—Shot Fire Sirdars of Tata's 6 & 7 Pits, P.O. Bhaga, Distt. Manbhum.—*Complainants.*

Vs.

M/S. Tata Iron and Steel Co. Ltd., Jamadoba, P.O. Jealgora, Distt., Manbhum,—*Opposite Party.*

APPEARANCES:

Shri B. N. Sharma, General Secretary, Tata's Collieries Labour Association, P.O. Jealgora, Dist. Manbhum.—*For the Complainants.*

Shri D. Narsingh, Chief Personnel Officer, M/S. Tata Iron & Steel Co. Ltd., P.O. Jealgora, Distt. Manbhum.—*For the Opposite Party.*

AWARD

This is a complaint under Section 33A of the Industrial Disputes Act.

2. The complainants alleged as under:—

A dispute regarding paid holidays was referred to this Tribunal on 5th May 1952 and it has been numbered as Reference No. 6 of 1952. The different collieries belonging to the opposite party were parties to this reference. The complainants were in the employment of opposite party as permanent employees for a long time, and were doing satisfactory work. On completion of satisfactory service of one year, the complainants applied for their due promotion for putting them on monthly rate in accordance with the rates and practice followed in the collieries of the opposite party. This request was turned down without giving any reasons. On the complainants making representations, they were informed that their promotions had been stopped because they were in unauthorised occupation of some quarters. The opposite party had thus punished the complainants by stopping their promotion without the express permission in writing from this Tribunal as required by Section 33 of the Industrial Disputes Act. In similar cases, the opposite party had granted promotions to other employees who were in unauthorised possession of their dhowras. In the case of the complainants, a discriminatory treatment was made out and thus the opposite party was guilty of unfair labour practice. The complainants therefore prayed that the opposite party should be directed to put the complainants on a monthly rate with retrospective effect.

3. The opposite party contended that the complaint was not legally maintainable. The complainants were members of the supervisory staff and were not workmen as defined in the Industrial Disputes Act. It also alleged that the complainants occupied some of the quarters of the opposite party without any authority or allotment. The managers concerned asked them to give up possession but they failed and neglected to do so. They were thereupon served with charge sheets and they gave their explanations which were found to be false. For this offence of unauthorised occupation of quarters and refusal to give possession thereof, the opposite party decided not to extend the privilege of putting them on a monthly rate as a disciplinary measure. The opposite party therefore urges that the complaints should be dismissed.

4. It is an admitted fact that these three complainants were working as shot firer Sirdars in the collieries belonging to opposite party. They were employed as daily rated workers. I am told that there is a practice with the opposite party that if the work of a shot firer is found satisfactory, he is after a particular time paid on a monthly rate. The monthly rate is more advantageous to the workmen than the daily rate and it is thus a sort of promotion. The three complainants in the present case were admittedly not put on the monthly rate even after they had put in the necessary period of service and that is why they filed the present complaint.

5. A preliminary objection has been raised in the written statement against the maintainability of the present complaint on the ground that the complainants were not workmen as defined in the Industrial Disputes Act, but were members of the supervisory staff. Unfortunately no evidence has been led on this point by either party and I am not in a position to decide whether the complainants are workmen or not.

6. Assuming, however, that the complainants are workmen, even then I think that the present complaint must fail. Their grievance is that they have not been promoted to the monthly rate after the usual period of service as daily rated workers. The opposite party admits this. It however urges that this was done because the complainants were found to be in unauthorised possession of dhowras (quarters) belonging to the opposite party and they failed to vacate them even when they were asked to do so. They were therefor served with charge sheets and ultimately the promotion to the monthly rate was refused.

7. Annexures B, and B1 to the written statement of the opposite party show that the complainants Nos. 1 and 3 were ordered by the Manager of the colliery on 9th July 1951 to vacate the quarters of which they were in unauthorised possession within a week, failing which disciplinary action would be taken against them. A similar letter (B2) was written to complainant No. 2 by the Manager on 3rd October 1951. In spite of this, none of the three complainants vacated the quarters in their possession.

8. They were thereupon served with charge sheets on 26th October 1951, stating that they had failed to vacate the quarters which were in their unauthorised occupation in spite of the notices issued to them. Complainant No. 1

replied to this on 2nd November 1951, complainant No. 2 replied on 27th October 1951 and complainant No. 3 replied on 31st October 1951. Copies of charge sheets with replies of the complainants are produced by the management at annexures C, C1 and C2 to the written statement.

9. Complainant No. 1, in his reply to the charge sheet stated that during his nine years of service, he had given several applications for the allotment of single room quarters to him but no such quarters were given to him although many persons junior to him were allotted such quarters. He further stated that about 40 single room quarters were in forcible occupation of other workmen. He then said that his wife was not well and he was therefore compelled to enter into the dhowrah which had fallen vacant. Lastly he said that other persons were in unauthorised occupation of dhowras and the management had not taken any action against them.

10. Complainant No. 2, in his reply, stated that he was living with one Ram Prasad in the quarters for about 5 or 6 years. These quarters were allotted to Ram Prasad and were standing in his name. As the complainant had found occupation, he had not made any application to the management for allotment of any quarters. He was now asked to vacate without any alternate arrangement being made. He pointed out to the management that they were passing orders without making any alternate arrangement, that they were not building quarters for the last 5 years, that no house rent in lieu of the quarters was given by the management, that no rented house was available within two square miles of the area, and that when no other alternate arrangement was made, the management should not harass the workmen who were living in a particular room for a long time.

11. In his reply, complainant No. 3 stated that he had made several applications for quarters but no quarters had been allotted to him. The particular quarter fell vacant and thereupon he occupied it and was compelled to do so due to family trouble. He further said that if he got other quarters, he was ready to vacate the same.

12. It would thus be clear that all the complainants admitted that they were in possession of quarters or dhowras (quarters), which were not allotted to them. In the case of complainants Nos. 1 and 3, they took unauthorised possession of quarters which had fallen vacant. In the case of complainant No. 2, the quarters were allotted to a particular workman and he was staying in those quarters with that workman. Later on that workman left the service and the complainant was asked to vacate the quarters; but he did not do so.

13. It was said that there were no quarters where the complainants could go and hence they could not be forced to vacate the quarters. As the matters stand at present, no colliery employer has provided quarters for all the employees working under him. In the case of the present management also, there are several other workmen who have not been provided with quarters by the management. The number of quarters is less than the number of workmen, with the result that some of the workmen cannot be provided with quarters by the management and those workmen have to make their own arrangements.

14. It has been stated in the replies to the charge sheets by the complainants 1 and 3 that they had made several applications to the management for allotment of quarters but no quarters were allotted to them. Complainant No. 1 also alleged that people junior to him had been allotted quarters. No material has been placed before me to show that these allegations are true. After all, the management have the right to allot quarters to the different workmen. As long as they do it in a *bona fide* manner, no workman could claim as a matter of right that he should be allotted the quarters. No allegation has been made by the complainants that they were not granted quarters for some *mala fide* reason. There is nothing to substantiate the allegation that people junior to the complainants in their department have been allotted quarters. Further it would not be proper for a workman to take forcible occupation of some quarters which may be lying vacant for the time being, merely because the management have not allotted any quarters to him. They were given notices to vacate the quarters but they did not do so. Then they were served with charge sheets and still they refused to vacate possession. In the case of complainant No. 2, he had been staying with some other workman who had been allotted the quarters and he was thus in the position of a sub-tenant. When the tenancy came to an end, the sub-tenant was also bound to vacate the possession. In his case, he admitted that he had not made any application to the management for allotment of quarters. He failed to vacate the quarters even in spite of a notice and a charge sheet.

15. As I said above, ordinarily it is the function of the management to allot quarters to the different workmen. It would not be proper or desirable that workmen should take forcible possession of quarters. Even if they have a grievance in this connection, they should adopt proper methods and not take law into their own hands. They are bound to maintain discipline. The management are entitled to expect that workmen do not take unauthorised or forcible possession of quarters unless they are allotted to them and at least to vacate them when they are asked to do so. As I said above, as the matters stand at present, no employer in the industry has provided quarters for all the workmen working under him and many workmen have to make their own arrangements for residence. Merely because the complainants have not been able to make any other arrangement for their residence they could not say that they were entitled to remain in possession of these quarters. By doing so, they were depriving some other workmen who may have a better and prior claim to the quarters being allotted to them.

16. It was then urged that the action of the complainants did not amount to misconduct, as the standing orders do not provide that unauthorised occupation of dhowras was a misconduct. In my opinion, standing orders are not exhaustive about different kinds of misconducts. In other words, some acts which may not come under the different clauses of the standing orders may amount to misconduct. The action of the workmen in taking forcible possession of the dhowras not allotted to them was in itself misconduct. When they were asked to vacate, they did not do so. This would mean that they failed to carry out the lawful orders of their superiors. This also amounted to misconduct.

17. In my opinion, therefore, the action of the management in refusing to give promotion to the complainants on the ground that they were in unauthorised occupation of the dhowras not allotted to them and on the ground that they had neglected to vacate them though asked to do so, is proper. The result is that the complainants cannot claim to be promoted so long as they are in unauthorised occupation of dhowras. No relief can be granted to them. The complaint fails and is dismissed.

I pass my award accordingly.

The 10th February 1954.

(Sd.) L. P. DAVE, *Chairman*,

Central Government's Industrial Tribunal, Dhanbad.

[No. LR.2(365)/III.]

S.R.O. 756.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of an application under section 33A of the said Act from Shri Ramfall Passi, a workman of Loyabad Colliery.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD

APPLICATION No. 204 of 1953

(Arising out of Reference No. 6 of 1952)

In the matter of an application U/S 33A of Industrial Disputes Act 1947

PRESENT:

Shri L. P. Dave, B.A., LL.B.—*Chairman*.

PARTIES:

Ramfall Passi, C.P. Miner, No. 9 Pit, Loyabad Colliery, P.O. Bansjora, Dist. Manbhum, Bihar.—*Complainant*.

Vs..

M/S. Burrakur Coal Co. Ltd., Loyabad Colliery, P.O. Bansjora, Dist. Manbhum.—*Opposite party*.

APPEARANCES:

No appearance on behalf of the Complainant

Shri D. N. Gupta, Chief Personnel Officer, M/S. Bird & Co. Ltd., P.O. Sijua, Dist. Manbhum.—*For the Opposite party*.

AWARD

This is a complaint under Section 33A of the Industrial Disputes Act.

2. The complainant alleged that he was a workman working as a C.P. miner in the Loyabad colliery. He and other workmen were forced to sit idle from 10th February 1953. He was told that he was transferred from C.P. mining to Pick mining. He requested the management not to change his service condition as he could not do pick mining work, but the management told him that he should resign, if he could not do the alternate work offered to him. The opposite party had thus committed a breach of Section 33 of the Industrial Disputes Act, and hence the complaint.

3. The opposite party contended *inter alia* that because of bad roof conditions, the company decided to gradually do away with C.P. mining method in Pit No. 9 of Loyabad Colliery. Permission was obtained from this Tribunal in Application No. 49 of 1953 to discharge 149 workmen working in that pit who were engaged in C.P. mining. The company did not intend to discharge those workmen who could be given similar or almost similar work and hence an application for permission to discharge the complainant and others was not made. Though pick mining was somewhat different from C.P. mining, it could be done efficiently by C.P. miners with little practice. It was urged that the complaint should be dismissed.

4. The complainant was a C.P. miner working in Pit No. 9 of Loyabad colliery. It appears that the company did away with the C.P. mining in the above pit, with the result that the complainant was discharged. He and other C.P. miners working with him were offered the job of pick miners. The complainant however did not accept the job and filed the present complaint.

5. At the hearing before me, the complainant was not present though he was served with a notice. Actually he was served with a notice twice. The first notice was returned with the endorsement "refused". I was not quite satisfied with this and thereupon another notice was issued to him and this was served on him personally. In spite of this, he did not appear at the hearing and I had to proceed *ex-parte*.

6. The complainant's grievance was that he was working as a C.P. miner and was asked to work as a pick miner, which work he could not do. The management urged that it stopped the C.P. mining work because of bad mining conditions. There is no allegation that this decision was not *bona fide* or the like. As the C.P. mining work was stopped, the management were entitled to discharge the C.P. miners. Instead of doing so, they offered them alternate job of pick mining. The complainant's grievance is that a C.P. miner would not be able to work as a Pick Miner. There is nothing to show that pick mining requires special skill. A person who has been working as a C.P. miner may in the beginning find it difficult or hard to work as a Pick Miner but it could not be said that it was impossible. Instead of an outright discharge, an alternate job on a similar work was offered to the complainant but he refused to accept it.

7. In this connection, it may be noted that the management had made an application No. 49 of 53 on 4th April 1953 to this Tribunal under Section 33 of the Industrial Disputes Act for permission to discharge 141 C.P. miners and 8 shot firers and shot firing coolies, on the ground that they had to stop C.P. mining work due to roof conditions. A compromise was arrived at between the management and the workmen, under which it was agreed that the workmen concerned should be retrenched but the company gave an assurance that they would endeavour to absorb all of them, as vacancies allowed and they also agreed to employ 141 miners as pick miners if they (the miners) themselves agreed to work as such. Accordingly permission was granted to retrench those workmen. This compromise entered into by a large number of C.P. miners would go to show that retrenchment was *bona fide* and necessary and that the C.P. miners could, if they wanted to do so, work as pick miners.

8. In all these circumstances, I think that the complainant cannot claim to be reinstated. His complaint fails and is dismissed.

I pass my award accordingly.

The 12th February, 1954.

(Sd.) L. P. DAVE, Chairman,

Central Government's Industrial Tribunal,
Dhanbad.

[LR. 2(365)/IV.]

S.R.O. 757.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of an application under section 33A of the said Act from Shri Bholanath Prasad, a workman of the Jamadoba Colliery.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD

APPLICATION No. 58 OF 1953

(Arising out of Reference No. 6 of 1952)

In the matter of an application U/S 33A of Industrial Disputes Act 1947

PRESENT

Shri L. P. Dave, B.A., LL.B., *Chairman.*

PARTIES

Shri Bholanath Prasad, Stock Holder, Central Store, Jamadoba, P.O. Jealgora, Dist. Manbhum—*Complainant.*

Vs.

M/s. Tata Iron & Steel Co. Ltd., Jamadoba, P.O. Jealgora (Dist. Manbhum)—*Opposite party.*

APPEARANCES

Shri B. N. Sharma, General Secretary, Tata's Collieries Labour Association, P.O. Jealgora, Dist. Manbhum—*For the Complainant.*

Shri S. S. Mukherjee, B.Sc., B.L., Pleader, Dhanbad—*For the Opposite party.*

AWARD

This is a complaint under Section 33A of Industrial Disputes Act.

2. The complainant alleges as under:—

Reference No. 6 of 1952 was pending before this Tribunal from 5th May 1952. The collieries of the opposite party were parties thereto. The complainant is in the employment of the opposite party from 1945 and has a clean record of service. At present, he is a Stock Holder getting a basic pay of Rs. 50 per month. The grade of the Stock Holder goes up to Rs. 110. Annual increment of the complainant fell due in February, 1953. After waiting a month after this, he applied for an increment, and sent several reminders but he was informed verbally that his increment had been stopped. In granting increments, the Superintendent of Collieries was making discriminatory treatment and showing favouritism. He was guilty of unfair labour practice. He granted increments to other employees whose increments had fallen due. The complainant urged that he had been punished for his legal trade union activities and for becoming a prominent spokesman of the workmen. The Superintendent of Collieries was annoyed with him for participating in a general strike of 31 days and a token strike on 7th November 1949. The complainant was the only person in his department who had joined in the strikes. Because of this, the Superintendent had decided to harrass him in many other ways and the stoppage of his annual increment without any reason was a specimen of his vindictiveness. The complainant therefore urged that the management should be directed to grant the complainant his due increment with retrospective effect from February 1953.

3. The opposite party's written statement is Exhibit 4. It contends as under:—

The present application is premature. The complainant was originally appointed as a Store-mate on an initial pay of 0-12-0 per day and was subsequently promoted to the post of a Stock Holder with the initial pay of Rs. 35 per month. There are no fixed grades for the clerical staff at the collieries of the opposite party. Clerks drawing between Rs. 35 and Rs. 50 per month are however generally given annual increments of Rs. 3 per month if their services during the preceding year are found satisfactory. When the clerk reaches the salary of Rs. 50, he does not receive any increment automatically even though his services during the preceding year may have been found satisfactory. He is promoted to a higher job if there is a vacancy and if he is considered fit for the higher post. In very exceptional cases, where the quality of clerks' work is considered well above the average, he is given an increment and his salary increased above Rs. 50 per month although there may not be any vacancy for the higher post. The complainant had reached

the maximum of Rs. 50 per month from 3rd February 1952. He had not been given any increment in 1953 in accordance with the practice referred to above. He can get an increment if he is drawing a salary of Rs. 50, only if there is a vacancy in the higher post or if his work is considered well above average. The opposite party was collecting material from various departments to enable it to consider whether he should be allowed to cross the salary of Rs. 50 and on receipt of information the opposite party would give due consideration to the matter. The opposite party denied that it had violated the provisions of Section 33 of the Industrial Disputes Act or punished the complainant. It also denied that increment was due to the complainant in February 1953. It also denied the allegations made against the Superintendent of Collieries. It lastly urged that the complaint should be dismissed.

4. It is not in dispute that the complainant joined services of the opposite party as a Store-mate on a pay of 0-12-0 per day in 1945. It is also not in dispute that he was promoted to the post of Stock-Holder from 1st August 1948 on a salary of Rs. 35 per month. It appears that he was given an increment every year in February after this and that he reached a salary of Rs. 50 per month from 3rd February 1952. His case is that the Stock-Holder's grade goes upto Rs. 110 per month and hence in 1953 he should have been given an increment raising the pay beyond Rs. 50. This was not done in spite of his having made a request and sent reminders and that is why he filed the present complaint contending that non-giving of increment amounted to a punishment. He urged in this connection that the opposite party could not punish him without the permission of this Tribunal as Reference No. 6 of 1952 to which the opposite party and its workmen were also parties was pending. The opposite party contended that the grade of Stock Holder went only upto Rs. 50 per month, and that a person reaching a maximum of Rs. 50 per month was not automatically given an increment the next year. He would be given an increment only if there was a vacancy in the higher grade. In exceptional cases, a workman whose work was far above the average was promoted to the higher grade even if there was no vacancy in that grade. The complainant was thus not entitled to an increment as a member of course in 1953. The opposite party also said that it was collecting material from its different departments to consider the question whether the complainant was entitled to go to the higher grade as a special case, that is, whether he was far above the average and deserved to be considered for special promotion. It was therefore urged in the written statement that the complaint was premature.

5. When the matter came up for hearing before me on 2nd July 1953, the parties stated before me that the opposite party wanted to consider the case of the complainant at its next staff meeting and adjournment was sought for. Accordingly the matter was adjourned. Thereafter the opposite party considered the case of the complainant and I was told that it decided that no increment could be given to the complainant as asked for by him. The matter was thereupon again fixed for hearing. Thus at present, the opposite party has already taken a decision that the complainant should not be given an increment as claimed for by him in 1953. It could not now be said that the complaint is premature. It may have been premature when it was filed. But the opposite party having taken a definite decision thereafter, it cannot be said to be premature now.

6. Similarly the question whether there is a breach of Section 33 or not would depend on the question whether the complainant was entitled to an increment or not. If he was entitled to an increment and yet it was not given to him, it would certainly be a case falling under Section 33 of the Industrial Disputes Act. On the other hand, if no increment was due to the complainant, the complaint must fail.

7. Thus the only point for my consideration is whether the complainant was entitled to increment as of right in 1953. His case is that the grade of Stock Holder goes right upto Rs. 110 and he was entitled to annual increments till he reached a pay of Rs. 110 per month and hence he should have been given increment in February 1953. On the other hand, the opposite party says that Stock Holder's grade goes only upto Rs. 50. Thereafter an increment would be given if there was a vacancy in the higher grade. I was also told that there are three grades of pay. The first starts with Rs. 35 and goes up to Rs. 50, the second starts at Rs. 50 or Rs. 55 and goes up to Rs. 75 and the third starts at Rs. 75 and goes up to Rs. 110. They say that a person in the grade of Rs. 35 to Rs. 50 would be promoted to the grade of Rs. 50 to 75 only if there was a vacancy in that grade. It further says that in exceptional cases, a person who was far above the average would be given the higher scale of pay even if there was no vacancy in the grade. But this would be only if the management felt that that particular person was far above the average.

8. As I said above, the complainant has alleged in the complaint that the grade of Stock Holder goes upto Rs. 110 per month. Actually, at the time of arguments before me, Mr. Sharma on behalf of the complainant stated that the Stock Holder's grade really started from Rs. 50 and that the complainant had been wrongly started at Rs. 35. Apart from the fact that I cannot consider this contention in this complaint, I may mention that there is no substance in the grievance. The complainant was started as a Stock Holder on a salary of Rs. 35 per month from 1st August 1948. At no time, however, has he made a grievance that he was given a starting salary which was lower than the starting salary of that grade. He did not make such an allegation even in the complaint. Further I have got copies of service records of several clerks showing that they were started on a salary of Rs. 35 and in some cases even less than Rs. 35 per month. It was stated by Mr. Sharma on behalf of the complainant that a grade of a clerk would not be a proper criterion for considering or deciding the grade of a Stock Holder. On the other hand, Mr. Mukherji on behalf of the opposite party stated that the grades of clerks and Stock Holders were the same. The complainant has admitted in his deposition that the post of Stock Holders and ledger keepers are now made interchangeable. He has however alleged that they were not interchangeable before. I however find from the different service records produced before me that these posts were interchangeable even before one year.

9. I may then refer to the service record of one Shri Umapada Biswas who held different posts. At one time he was Oil Issue Clerk and was then transferred to the post of a Rice Clerk. He was then promoted as a Rice Keeper on a salary of Rs. 35 per month. Increments were given to him from time to time till he got Rs. 44 per month. But later he was demoted to the post of Assistant Rice Keeper but on the same salary which he was drawing. From this post, he was transferred as a Stock Holder, also on the same pay. While serving as a Stock Holder, he got increment under which his salary was raised to Rs. 47. Some time after this, he was promoted to the general godown also as a Stock Holder on the same pay. This record shows that the Stock Holder's grade starts at less than Rs. 50.

10. In his deposition, the complainant has stated that there are in all six Stock Holders, including himself. Two of them are even now drawing a salary of less than Rs. 50. Two others (including himself) started at less than Rs. 50 and have now reached Rs. 50. Umapada Biswas just referred to also started at less than Rs. 50. Only one Gokulanand Singh was started on a salary of Rs. 50 per month in 1943 and was given promotion from time to time till he got Rs. 75 when he was transferred on the same salary as a Store Keeper. It was argued from this that the salary of a Stock Holder started at Rs. 50. It may be noted that Shri Gokulanand Singh started as a clerk in the stores and not as a Stock Holder. The grades of clerks and Stock Holders are the same. The fact that Mr. Singh was started on a salary of Rs. 50 would not mean that the starting salary of clerks was Rs. 50. It would only mean that due to his qualifications or other reasons he was appointed directly in the second grade of Rs. 50 to 75. It would not prove the complainant's allegation made at the time of arguments that all Stock Holders started or should have started at Rs. 50 per month, when five out of the six Stock Holders were admittedly started at below Rs. 50.

11. Thus the complainant was rightly started on Rs. 35 on 1st August 1948. After six months (on 1st February 1949), he was given a promotion of Rs. 5 raising his salary to Rs. 40. Next year he was granted another increment raising his salary to Rs. 43. On 3rd February 1951, his salary was increased to Rs. 47-4-0 and on 3rd February 1952 it was increased to Rs. 50. He contends that in 1953 he should have been given an increment raising his salary to Rs. 55 or so. On the other hand, the management urge that having reached the maximum of his grade, he could not be given an increment unless he was promoted to the higher grade. Promotion to the higher grade depended on there being a vacancy in the upper grade or the complainant being found well above the average deserving a special promotion.

12. Before proceeding further, I may mention that this matter comes to me by way of a complaint under Section 33A of the Industrial Disputes Act. That section would be applicable if the management have committed a breach of Section 33 of the Industrial Disputes Act, which lays down *inter alia* that during the pendency of a reference before an Industrial Tribunal, no employer should alter the conditions of service applicable to workmen or to discharge or punish them, save with the express permission of the Tribunal. In other words, there would be a breach of Section 33, only if an employer had altered the conditions of service applicable to the workmen immediately before the commencement of the reference or had discharged or punished the workmen. This would mean that an employer was not entitled to change the grade of a workman to his prejudice; but for that purpose, we must take the grade as it stood on the date and not the grade as it

ought to be. In other words, I cannot consider as to what should be the proper grade or grades of the Stock Holders or clerks; but I have got to be satisfied that the complainant was not given an increment, which he was entitled to according to the grade of scales of pay which were in existence at the time of Reference No. 6 of 1952.

13. In the present case, the complainant alleges that he was entitled to an increment above Rs. 50 because the grades of Stock Holders rose upto Rs. 110 per month. Unless the complainant satisfies the Tribunal that the grade of the Stock Holders automatically took them to the salary of Rs. 110, or in other words unless the complainant satisfied the Tribunal that an increment above Rs. 50 was automatic, he cannot make a grievance on the ground that the proper scale of pay should be such that all Stock Holders earned annual increments automatically till they reached Rs. 110 per month; because, as I said above, in the present proceedings which come to me by way of a complaint under Section 33A of the Industrial Disputes Act, it would be beyond my powers to consider as to what should be the proper grades of clerks or stock holders. I must take the grades as they stand and see whether the management have altered the grade to the prejudice of the complainant, or not given an increment to the complainant, which he should have got.

14. There is no reliable evidence in support of the complainant's allegation that the grades of the Stock Holders go automatically upto Rs. 110. As I pointed out above the complainant's evidence shows that two of the stock holders have not yet reached a salary of Rs. 50. One could not decide therefrom as to whether the grade of a stock holder goes up automatically beyond Rs. 50. One of the other Stock holders has however reached the salary of Rs. 50 as long ago as 1st December 1951, that is, even prior to the complainant and still, he (i.e. that other stock holder) has not been given any increment. His case would therefore go against the complainant. The remaining stock holder is Umapada Biswas. His service record shows that he has now been promoted to the post of the general godown Stock Holder and some time thereafter his salary has been increased to beyond Rs. 50 per month. It would not however prove that every Stock Holder would get an increment automatically on completing one year's service on the maximum (Rs. 50) of his pay. The complainant has not produced any other evidence in support of his allegation that the grade of a Stock Holder automatically goes up to Rs. 75 or Rs. 110, or to show that the promotion above Rs. 50 is automatic.

15. On the other hand, the opposite party has produced the service sheets of several employees showing that the promotion beyond Rs. 50 is not automatic. One N. C. Sinha working as a clerk has reached a salary of Rs. 50 on 1st July 1949 and still he has not yet got any increment thereafter. Similarly Messrs. N. N. Chatterji, R. R. Sircar, G. N. Bhattacharjee, B. N. Sahal, Ram Gopal Chatterji, E. Mondal and K. K. Choudhury, are all drawing a salary of Rs. 50 per month from 1st March 1949, 1st January 1951, 1st August 1951, 1st July 1948, 1st March 1951, 1st October 1950 and 1st February 1951 respectively. None of these persons has yet been given an increment beyond Rs. 50, though they reached this pay several years ago. The service record of S. C. Chandra shows that he reached the salary of Rs. 50 on 1st March 1949 and it was only on 1st October 1952 that his salary was raised to Rs. 55. In other words, no increment above Rs. 50 was given to him for three years and 7 months. All these cases support the allegation of the opposite party that the maximum pay of the grade is Rs. 50, and that promotion thereafter is not automatic, but depends on there being a vacancy in the higher grade or the employee deserving such promotion.

16. I may then point out that the last increment was given to the complainant on 3rd February 1952. At that time, he was drawing a salary of Rs. 47-4-9 and it was increased to Rs. 50. If the promotion beyond Rs. 50 was automatic, I think that he would have at that time been given a salary beyond Rs. 50. The fact that he was then given an increment of less than Rs. 3 so as to bring his salary to Rs. 50 would go to show that Rs. 50 was the maximum of that grade.

17. At this stage, I may mention that the opposite party does not appear to have fixed scales of increment. I find that different clerks have been given increments of different amounts at different times between Rs. 35 and Rs. 50. The complainant was given the first increment of Rs. 5 within six months. The next increment was Rs. 3, the third was of Rs. 4-4-9 and the last took his pay to Rs. 50. He took only 3½ years to reach the maximum of his scale. In some cases, I have found that the increment was Rs. 3 per year, taking a person 5 years to reach the maximum. In some cases, the increments have not been of Rs. 3 per year but of different amounts. This is not quite a desirable state of affairs; because it would not be desirable that the amount of increment should depend on the will of the authorities giving it. If different persons are given different increments, the

action is liable to be misunderstood and criticised. In some cases, the officer concerned may pass orders arbitrarily. I am however not called upon to pass any specific orders in this connection; because I am not concerned with the grade between Rs. 35 and Rs. 50. I have only to consider whether a person, who reaches the salary of Rs. 50, is entitled as of right to an increment in the next year. As I said above, there is absolutely no evidence before me showing that the promotion beyond Rs. 50 is automatic. The record supports the allegation of the opposite party that the person reaching Rs. 50 would be promoted to the higher grade, only if, (i) there is a vacancy and he is found fit for the higher post, or (ii) in special cases, where the work of an employee is well above the average, (i.e., he deserves special promotion). In the latter case, it would be for the management to decide whether a particular person deserves special promotion or not.

18. In the present case, it has not been shown that there has been a vacancy in the higher grade. As pointed out above, there is at least one other person senior to the complainant who is drawing Rs. 50 from before the time the complainant reached that pay.

19. I may also mention that there is no evidence to support the allegation of the complainant that increment was refused to him because of his trade union activities. In the complaint, he has said that he had taken part in certain strikes; but even after those strikes, the complainant was given increments every year. It could not therefore be believed that no increment was given to him in 1953 because of his trade union activities. I am satisfied that no increment was due to him in 1953.

20. The result is that the complainant is not entitled to any increment or any other relief. The complaint fails and is dismissed.

I pass my award accordingly.

The 12th February 1954.

(Sd.) L. P. DAVE, Chairman.

Central Government's Industrial Tribunal, Dhanbad

[No. LR.2(365)/V.]

P. S. EASWARAN, Under Secy

New Delhi, the 18th February 1954

S.R.O. 758.—In exercise of the powers conferred by section 5 of the Dock Workers (Regulation of Employment) Act, 1948 (IX of 1948), read with rule 3 of the Dock Workers (Advisory Committee) Rules, 1949, the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the Ministry of Labour No. Fac.73(6), dated the 11th February 1950, constituting the Dock Workers Advisory Committee, namely:—

In the said notification under the heading "Government representatives," for the entry against item (1) relating to Shri L. C. Jain, I.C.S., the following entry shall be substituted, namely:—

"(1) Shri S. C. Joshi, Chief Labour Commissioner, Ministry of Labour—
Chairman."

[No. Fac.73(6).]

New Delhi, the 19th February 1954

S.R.O. 759.—In pursuance of section 8 of the Employees' State Insurance Act, 1948 (XXXIV of 1948), the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the Ministry of Labour No. S.R.O. 331, dated the 19th January 1954, namely:—

In the said notification, for item (1) the following item shall be substituted, namely:—

"(1) Shri Vishnu Sahay, I.C.S., Secretary to the Government of India—
Ministry of Labour."

[No. SS.121(75)]

S. NEELAKANTAM, Dy. Sec